

State of South Dakota

EIGHTY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2006

345M0034

HOUSE BILL NO. 1010

Introduced by: Representatives Davis, Brunner, Garnos, Lange, Olson (Ryan), Sigdestad, Tidemann, and Vehle and Senator Kooistra at the request of the Interim Committee on Department of Agriculture Agency Review

1 FOR AN ACT ENTITLED, An Act to make form and style revisions to certain agriculture
2 statutes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 38-1-2 be amended to read as follows:

5 38-1-2. The head of the Department of Agriculture ~~shall be known as~~ is the secretary of
6 agriculture of the State of South Dakota, ~~and wherever the word "secretary".~~ The term, secretary,
7 wherever it appears in this title, ~~it shall mean~~ means the "secretary of agriculture of the State of
8 South Dakota" unless the context indicates otherwise. ~~He shall be~~ The secretary is appointed by
9 the Governor pursuant to S.D. Const., Art. IV, § 9 and to § 1-32-3.

10 Section 2. That § 38-1-3 be amended to read as follows:

11 38-1-3. The secretary of agriculture shall qualify by taking and filing with the secretary of
12 state, the constitutional oath of office and likewise filing a bond for faithful discharge of the
13 duties of ~~his~~ the office in such penal sum as may be fixed by the Governor, but in no event less
14 than ten thousand dollars.

15 Section 3. That § 38-1-11 be amended to read as follows:



1 38-1-11. The secretary of agriculture shall, with the advice and consent of the Governor,
2 appoint such executive assistants as may be authorized by law or as may be necessary to the
3 efficient administration of the duties of the office, ~~and which executives.~~ The executive
4 assistants shall qualify in ~~like the same~~ manner as the secretary except that their bonds shall be
5 in ~~such sum as may be~~ a sum fixed by the Governor, but in no event less than five thousand
6 dollars.

7 Section 4. That § 38-1-12 be amended to read as follows:

8 38-1-12. The secretary of agriculture ~~shall have power~~ may, with the advice and consent of
9 the Governor, ~~to~~ employ ~~such~~ inspectors, deputies, clerical assistants, and other ~~necessary~~
10 employees ~~as shall be~~ necessary for the efficient and economical administration of ~~his~~ the
11 department and not inconsistent with the rules ~~and regulations~~ of the Bureau of Personnel.

12 Section 5. That § 38-1-15 be amended to read as follows:

13 38-1-15. The secretary of agriculture and all executive assistants and directors shall devote
14 their entire time to the duties of the office and ~~shall~~ may hold no other office or position of
15 profit under the state government, ~~but.~~ However, any of them may hold and administer any other
16 office to which they may be appointed by the Governor, or head of their department with the
17 consent of the Governor, but without additional compensation.

18 Section 6. That § 38-1-18.1 be amended to read as follows:

19 38-1-18.1. The secretary of agriculture ~~is hereby authorized to~~ may accept and receive
20 grants, devises, bequests, donations, or gifts, in the form of money, for the purpose of
21 establishing a fund to be used for the promotion of agriculture and to provide service in
22 agriculture.

23 All moneys received by the secretary of agriculture under this section shall be deposited with
24 the state treasurer and credited in a fund designated as "the Department of Agriculture

1 promotion fund." All moneys in ~~said~~ the fund are hereby appropriated for the promotion of
2 agriculture and to provide service in agriculture. ~~Said~~ Money in the fund shall be paid out on
3 warrants drawn by the state auditor on vouchers approved by the secretary of agriculture.

4 Section 7. That § 38-1-19 be amended to read as follows:

5 38-1-19. The Department of Agriculture ~~shall have power to~~ may collect and publish
6 statistics relating to crop production, marketing and farm economics, the production and
7 marketing of all farm products only so far as such statistical information may be of value to the
8 agricultural and allied interests of the state; ~~and to.~~ The department may cooperate with the
9 federal government, the South Dakota State University, and agricultural organizations in the
10 matter of collecting such statistical information. Such published statistics ~~shall be~~ are the official
11 agricultural statistics of the state.

12 Section 8. That § 38-1-23 be amended to read as follows:

13 38-1-23. The secretary of agriculture shall attend to and have supervision of all
14 correspondence relating to immigration and shall try to secure the most effective advertisement
15 of the resources and opportunities of the state. ~~It shall be his duty to~~ The secretary shall
16 encourage investments of capital within the state and ~~to~~ facilitate the settlement of persons and
17 families seeking new homes or establishment of new business enterprises in the state.

18 Section 9. That § 38-1-24 be amended to read as follows:

19 38-1-24. The secretary of agriculture shall prepare, publish, and distribute by mail and
20 otherwise, documents, articles, and advertisements designed to convey information on all
21 matters pertaining to the agricultural, industrial, mining, and other resources and advantages of
22 the state. ~~He~~ The secretary may also prepare displays for exhibits of agriculture, horticulture,
23 manufactured, and mineral products of the state.

24 Section 10. That § 38-1-26 be amended to read as follows:

1 38-1-26. The Department of Agriculture ~~shall have power to~~ may cooperate with the State
2 Fair Commission in furthering the agricultural interests of the state.

3 Section 11. That § 38-1-29 be amended to read as follows:

4 38-1-29. The Department of Agriculture ~~shall have power to~~ may inspect apiaries and
5 provide for the protection of bees.

6 Section 12. That § 38-1-30 be amended to read as follows:

7 38-1-30. The Department of Agriculture ~~shall have power to~~ may cooperate with the
8 commissioner of school and public lands ~~in protecting to protect~~ the forests of the State of South
9 Dakota, and particularly in the matter of guarding against and preventing the devastation or
10 destruction thereof by any insects, pests, or fires.

11 Section 13. That § 38-1-32 be amended to read as follows:

12 38-1-32. The Department of Agriculture ~~shall have power to~~ may inspect and control the
13 importation and sale of nursery stock.

14 Section 14. That § 38-1-33 be amended to read as follows:

15 38-1-33. ~~It shall be the duty of the~~ The secretary of agriculture ~~to shall~~ assemble, compile,
16 and maintain files of statistical data relating to the work and progress of production and
17 marketing cooperative enterprises, the statutes of the several states, and, so far as reasonably
18 convenient, those of foreign countries, affecting production and marketing cooperatives. ~~He~~ The
19 secretary shall also carry standard forms and outlines for use and reference in organization work.

20 Section 15. That § 38-1-34 be amended to read as follows:

21 38-1-34. The secretary of agriculture shall disseminate the information and materials
22 described in § 38-1-33 for the use and benefit of established production and marketing
23 cooperatives and new production and marketing cooperative projects in process of organization.
24 ~~He~~ The secretary shall also render such personal assistance to production and marketing

1 cooperatives generally as may be possible with the means and facilities at ~~his~~ the secretary's
2 disposal.

3 Section 16. That § 38-1-36 be amended to read as follows:

4 38-1-36. The Department of Agriculture ~~shall have power to~~ may cooperate with the
5 Department of Game, Fish and Parks ~~of the State of South Dakota~~ in the protection,
6 preservation, propagation, and distribution of fish, game, and wild animals.

7 Section 17. That § 38-1-37 be amended to read as follows:

8 38-1-37. The secretary of agriculture shall furnish such cooperation, coordination, data, and
9 information to other departments, subdivisions, or officers of the state government as may
10 promote the most efficient administration of the state government as a whole and as may tend
11 to prevent duplication of effort and expense in administration of such government, ~~and he shall~~
12 ~~have the right to.~~ The secretary may require the same for such purposes from other departments,
13 subdivisions, or officers of the state government.

14 Section 18. That § 38-1-38 be amended to read as follows:

15 38-1-38. The secretary of agriculture ~~shall have power to~~ may arrange, subject to approval
16 of the Governor, for representation before legislative and administrative agencies of the federal
17 government, at such times as it seems advisable and in the manner deemed most advantageous
18 to the state, for the purpose of obtaining federal legislation or administrative rulings helpful to
19 the agricultural interests of the country, either individually or cooperatively with another state
20 or other states with like interests, or in cooperation with agricultural organizations.

21 Section 19. That § 38-1-40 be amended to read as follows:

22 38-1-40. The secretary of agriculture may make complaint against any person violating any
23 of the provisions of the laws ~~he~~ that the secretary is empowered to enforce or administer, before
24 any court having jurisdiction, and security for costs ~~shall~~ may not be required of the ~~complainant~~

1 ~~secretary~~ in any action or proceeding instituted by ~~him the secretary~~ or under ~~his the secretary's~~
2 authority for the purpose of such enforcement, ~~and it shall be the duty of all.~~ Any prosecuting
3 ~~officers officer~~ of this state to shall prosecute ~~all actions or proceedings~~ any action or proceeding
4 instituted by the secretary of agriculture.

5 Section 20. That § 38-5-1 be amended to read as follows:

6 38-5-1. The secretary of agriculture ~~of the State of South Dakota is hereby authorized and~~
7 ~~directed to~~ shall enter into cooperative agreements with any officers or agencies of the federal
8 government for the taking of annual agricultural censuses by the regularly appointed assessment
9 officers and such other public officers and employees as may be designated for that purpose, for
10 the purpose of obtaining information to be used by the federal government in the State of South
11 Dakota and the allotment of benefits and other payments to farmers cooperating with the federal
12 government, or for any other purpose whatever for which such information may be desired or
13 required by any federal or state officer or agency.

14 Section 21. That § 38-5-2 be amended to read as follows:

15 38-5-2. ~~It shall be the duty of all directors~~ Each director of equalization to shall list the name
16 and address of each farm operator along with the acreage and production of each crop and
17 number and kind of each species of livestock and poultry as required in the census schedule
18 furnished them by the secretary of agriculture. No director of equalization ~~shall be entitled to~~
19 may receive compensation until ~~he shall have~~ the director has fully complied with the
20 requirements ~~hereof~~ of this section.

21 Section 22. That § 38-5-3 be amended to read as follows:

22 38-5-3. ~~It shall be the duty of other~~ The public officers and employees within the state to
23 shall comply with and perform all the duties imposed upon them or required by the provisions
24 of cooperative agreements entered into pursuant to § 38-5-1 and the directions of the secretary

1 of agriculture.

2 Section 23. That § 38-6-2 be amended to read as follows:

3 38-6-2. The secretary of agriculture shall furnish ~~such~~ a surety bond ~~and in such~~ in an
4 amount as the Governor ~~may require~~ requires conditioned upon the faithful performance of ~~his~~
5 the duties as such official of the office of the secretary of agriculture and for a true accounting
6 of all money and property coming into ~~his~~ the secretary's hands ~~as such~~ in the course of serving
7 as the secretary of agriculture.

8 Section 24. That § 38-6-4 be amended to read as follows:

9 38-6-4. Notwithstanding any other provisions of law, funds and the proceeds of the trust
10 assets ~~which~~ that are not authorized to be administered by the secretary of agriculture of the
11 United States under the provisions of § 38-6-3 shall be received by the secretary of agriculture
12 under the application made pursuant to § 38-6-1 and ~~by him~~ deposited by the secretary with the
13 state treasurer for use by the secretary for such of the rural rehabilitation purposes permissible
14 under the charter of the now dissolved South Dakota Rural Rehabilitation Corporation as may
15 from time to time be agreed upon by the secretary of agriculture with the approval of the
16 Governor and the secretary of agriculture of the United States subject to the applicable
17 provisions of ~~said~~ Public Law 499, or for the purposes of § 38-6-3.

18 Section 25. That § 38-6-5 be amended to read as follows:

19 38-6-5. The secretary of agriculture, with the approval of the Governor, ~~is authorized and~~
20 ~~empowered to~~ may collect, compromise, adjust, or cancel claims and obligations arising out of
21 or administered under this chapter or under any mortgage, lease, contract, or agreement entered
22 into or administered pursuant to this chapter and, if in ~~his~~ the secretary's judgment, necessary
23 and advisable, pursue the same to final collection in any court having jurisdiction.

24 Section 26. That § 38-6-6 be amended to read as follows:

1 38-6-6. The secretary of agriculture, with the approval of the Governor, ~~is authorized and~~
2 ~~empowered to~~ may bid for and purchase at any execution, foreclosure, or other sale, or
3 otherwise to acquire property upon which the secretary has a lien by reason of a judgment or
4 execution, or which is pledged, mortgaged, conveyed, or which otherwise secures any loan or
5 other indebtedness owing to or acquired by the secretary under this chapter.

6 Section 27. That § 38-6-7 be amended to read as follows:

7 38-6-7. The secretary of agriculture, with the approval of the Governor, ~~is authorized and~~
8 ~~empowered to~~ may accept title to any property purchased or acquired pursuant to § 38-6-6; ~~to~~
9 operate or lease ~~such~~ the property for ~~such a~~ a period ~~as may be~~ deemed necessary to protect the
10 investment ~~therein; in the property~~, and to sell or otherwise dispose of ~~such the~~ property in a
11 manner consistent with the provisions of this chapter.

12 Section 28. That § 38-6-8 be amended to read as follows:

13 38-6-8. The secretary of agriculture, with the approval of the Governor, ~~is authorized and~~
14 ~~empowered to~~ may negotiate, renegotiate, invest, reinvest, transfer, and sell securities, notes,
15 bonds, mortgages, and other obligations, including funds and the proceeds of trust assets, in
16 such manner and upon such terms; and conditions and for such periods of time ~~consistent with~~
17 ~~and as necessary~~ for carrying out the purposes of this chapter ~~and to do any and~~. The secretary,
18 with the approval of the Governor, may do all things necessary to effectuate and carry out the
19 purposes permissible under the charter of the now dissolved South Dakota Rural Rehabilitation
20 Corporation.

21 Section 29. That § 38-6-9 be amended to read as follows:

22 38-6-9. The authority contained in §§ 38-6-5 to 38-6-8, inclusive, may be delegated to the
23 secretary of agriculture of the United States with respect to funds or assets authorized to be
24 administered and used by ~~him~~ the secretary of agriculture of the United States under agreements

entered into pursuant to § 38-6-3.

Section 30. That § 38-7-2 be amended to read as follows:

38-7-2. ~~Wherever used or referred to~~ Terms used in this chapter or chapter 38-8, ~~unless a~~
~~different meaning clearly appears from the context~~ mean:

(1) "Agency of this state," ~~includes~~ the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state;

(2) "Commission," ~~means~~ the State Conservation Commission established by § 38-7-3;

(3) "District" or "conservation district," ~~means~~ a governmental subdivision of this state, and a public body, corporate and politic, organized in accordance with the provisions of chapter 38-8, for the purpose, with the powers, and subject to the restrictions ~~therein~~ set forth in chapter 38-8;

(4) "Division," ~~means~~ the Division of Resource Conservation and Forestry created by § 38-7-2.1;

(5) "Due notice," ~~means~~ notice published at least twice, with an interval of at least seven days between the publication dates, in a legal newspaper within ~~said the~~ the district or by posting copies ~~thereof~~ of the notice in three of the most public places within ~~said the~~ the district for a period of at least ten days immediately preceding the date specified in ~~said the~~ the notice. At any hearing held pursuant to ~~such the~~ the notice, at the time and place designated in ~~such the~~ the notice, adjournment may be made from time to time without the necessity of renewing ~~such the~~ the notice for ~~such the~~ the adjourned dates;

(6) "Government" or "governmental," ~~includes~~ the government of this state, the government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them;

(7) "Land occupier" or "occupier of land," ~~includes~~ any person, firm, or corporation who

1 ~~shall hold~~ holds title to, or ~~shall be~~ is in possession of any agricultural, grazing, or
2 forest lands lying within a district organized under the provisions of chapter 38-8,
3 whether as owner, lessee, renter, tenant, or otherwise;

4 (8) ~~A "landowner"~~ "Landowner" or "owners of land," ~~shall include~~ any South Dakota
5 resident person, firm, or corporation, public or private, who has legal title to ten or
6 more acres of land, lying within a district organized, or to be organized as shown by
7 the records in the offices of the register of deeds and the clerk of courts of the county
8 in which ~~such the~~ the land is situated, ~~and if such, if the~~ the land is sold under a contract for
9 deed, which is of record in the office of the register of deeds of ~~such the~~ the county, both
10 the landowner and ~~his the~~ the individual purchaser of ~~such the~~ the land, as named in ~~such the~~ the
11 contract for deed, ~~shall be~~ are treated as landowners;

12 (9) "Nominating petition," ~~means~~ a petition filed under the provisions of chapter 38-8
13 to nominate candidates for the office of supervisor of a conservation district;

14 (10) "Petition," ~~means~~ a petition filed under the provisions of chapter 38-8 for the creation
15 of a conservation district;

16 (11) "Supervisor," ~~means~~ one of the members of the governing body of a district, elected
17 or appointed in accordance with the provisions of chapter 38-8;

18 (12) "United States" or "agencies of the United States," ~~includes~~ the United States of
19 America, the ~~Soil~~ Natural Resource Conservation Service of the United States
20 Department of Agriculture, and any other agency or instrumentality, corporate or
21 otherwise, of the United States of America.

22 Section 31. That § 38-7-6 be amended to read as follows:

23 38-7-6. The following shall serve as nonvoting members of the State Conservation

24 Commission: the secretary of Environment and Natural Resources; the director of the state

1 extension service; the director of the state agricultural experiment station located at Brookings;
2 the commissioner of school and public lands; the secretary of the Department of Game, Fish and
3 Parks or ~~his~~ the secretary's designee; and if approved by the United States secretary of
4 agriculture, the state conservationist for the United States ~~Soil~~ Natural Resource Conservation
5 Service, or ~~their~~ the state conservationist's designee. A member of the commission ~~shall~~ may
6 hold office only so long as ~~he shall retain the office by virtue of which he shall be serving the~~
7 member retains the position specified in this section that qualifies the member for service on the
8 commission.

9 Section 32. That § 38-7-8 be amended to read as follows:

10 38-7-8. The State Conservation Commission shall keep a record of its official actions; and
11 shall adopt a seal, which seal shall be judicially noticed; ~~and.~~ The commission may perform
12 ~~such~~ acts, hold ~~such~~ hearings, and promulgate rules pursuant to chapter 1-26 concerning:

- 13 (1) The organization and operation of the commission;
- 14 (2) Cooperation and assistance provided to conservation districts;
- 15 (3) The reporting of election results and financial affairs of the conservation districts;
- 16 (4) The governing and administration of conservation district elections; and
- 17 (5) The certification procedures, inspections, and payments made pursuant to the
18 shelterbelt program established in chapter 38-7A.

19 Section 33. That § 38-7-9 be amended to read as follows:

20 38-7-9. A majority of the State Conservation Commission ~~shall constitute~~ constitutes a
21 quorum, and the concurrence of a majority in any matter within ~~their~~ the commission's duties
22 ~~shall be~~ is required for its determination.

23 Section 34. That § 38-7-10 be amended to read as follows:

24 38-7-10. The State Conservation Commission shall designate its ~~chairman~~ chair annually.

1 ~~It shall have authority to~~ The commission may delegate to its ~~chairman chair~~, to one or more of
2 its members, or to one or more agents or employees, such powers and duties as it ~~may deem~~
3 deems proper.

4 Section 35. That § 38-7-14 be amended to read as follows:

5 38-7-14. Upon request of the Division of Resource Conservation and Forestry for the
6 purpose of carrying out any of its functions, the supervising officer of any state agency, or any
7 state institution of learning ~~shall, insofar as may be, if possible under available appropriations;~~
8 and having due regard to the needs of the agency to which the request is directed, shall assign
9 or detail to the division; members of the staff or personnel of ~~such the~~ agency or institution of
10 learning, and ~~making~~ shall make such special reports, surveys, or studies as the division may
11 request.

12 Section 36. That § 38-7-15 be amended to read as follows:

13 38-7-15. In addition to the duties and powers conferred upon the Division of Resource
14 Conservation and Forestry in chapter 38-8, ~~it shall have the duty and power to~~ the division shall
15 offer such assistance as may be appropriate to the supervisors of conservation districts,
16 organized as provided in chapter 38-8, in the carrying out of any of their powers and programs.

17 Section 37. That § 38-7-16 be amended to read as follows:

18 38-7-16. In addition to the duties and powers conferred upon the Division of Resource
19 Conservation and Forestry in chapter 38-8, ~~it shall have the duty and power to keep~~ the division
20 shall make reasonable efforts to inform the supervisors of each of the several districts organized
21 under the provisions of chapter 38-8 ~~informed~~ of the activities and experience of all other
22 districts organized ~~thereunder~~ under chapter 38-8, and ~~to~~ shall attempt to facilitate an
23 interchange of advice and experience between ~~such the~~ districts and cooperation between them.

24 Section 38. That § 38-7-17 be amended to read as follows:

1 38-7-17. In addition to the duties and powers conferred upon the Division of Resource
2 Conservation and Forestry in chapter 38-8, ~~it shall have the duty and power to~~ the division shall
3 coordinate the programs of the several conservation districts organized under chapter 38-8 so
4 far as this may be done by advice and consultation.

5 Section 39. That § 38-7-18 be amended to read as follows:

6 38-7-18. In addition to the duties and powers conferred upon the Division of Resource
7 Conservation and Forestry in chapter 38-8, ~~it shall have the duty and power to~~ the division shall
8 attempt to secure the cooperation and assistance of the United States and any of its agencies, and
9 of agencies of this state, in the work of the several conservation districts.

10 Section 40. That § 38-7-19 be amended to read as follows:

11 38-7-19. In addition to the duties and powers conferred upon the Division of Resource
12 Conservation and Forestry in chapter 38-8, ~~it shall have the duty and power to~~ the division shall
13 disseminate information throughout the state concerning the activities and programs of the
14 conservation districts organized under chapter 38-8, and ~~to~~ shall encourage the formation of
15 ~~such~~ conservation districts in areas where their organization is desirable.

16 Section 41. That § 38-7-20 be amended to read as follows:

17 38-7-20. In addition to the duties and powers conferred upon the Division of Resource
18 Conservation and Forestry in chapter 38-8, ~~it shall have the duty and power to~~ the division shall
19 represent the state conservation districts and ~~to~~ develop and implement state policy for land
20 conservation and development. ~~Also to cooperate~~ The division shall promote cooperation at all
21 levels of government, with all other agencies, both public and private, in the conservation and
22 development of all renewable natural resources.

23 Section 42. That § 38-7-21 be amended to read as follows:

24 38-7-21. In addition to the duties and powers conferred upon the State Conservation

1 Commission in chapter 38-8, ~~it shall have the duty and power to~~ the commission shall review
2 and make recommendations within its discretion, in cooperation and consultation with affected
3 districts, on all natural resource development programs proposed or planned by local, state, and
4 federal agencies and subdivisions.

5 Section 43. That § 38-7-22 be amended to read as follows:

6 38-7-22. In addition to the duties and powers conferred upon the Division of Resource
7 Conservation and Forestry, ~~it shall have the duty and power to~~ the division shall attempt to
8 provide funds, grants, supplies, and staff assistance to conservation districts and ~~to~~ shall assist
9 ~~such~~ the districts in obtaining technical planning guidance from ~~the State Planning Commission,~~
10 ~~and other~~ local, state, and federal agencies.

11 Section 44. That § 38-7-23 be amended to read as follows:

12 38-7-23. In addition to the duties and powers conferred upon the Division of Resource
13 Conservation and Forestry, ~~it shall have the duty and power to~~ the division shall require proper
14 accounting and financial reporting procedures by conservation districts and ~~to~~ shall assist in the
15 implementation of these procedures.

16 Section 45. That § 38-8-4 be amended to read as follows:

17 38-8-4. After a hearing pursuant to § 38-8-2, if the State Conservation Commission ~~shall~~
18 ~~determine~~ determines, upon the facts presented at ~~such~~ the hearing and upon such other relevant
19 facts and information as may be available, that there is need, in the interest of public health,
20 safety, and welfare, for a conservation district to function in the territory considered at the
21 hearing, ~~it~~ the commission shall make and record ~~such~~ its determination, and shall define, by
22 metes and bounds or by legal subdivisions, the boundaries of ~~such~~ the district. The territory to
23 be included within ~~such~~ the boundaries need not be contiguous.

24 Section 46. That § 38-8-5 be amended to read as follows:

1 38-8-5. If the State Conservation Commission ~~shall determine~~ determines after a hearing
2 pursuant to § 38-8-2, after due consideration of the relevant facts mentioned in § 38-8-3, that
3 there is no need for a conservation district to function in the territory considered at the hearing,
4 ~~it the commission~~ shall make and record ~~such its~~ determination and shall deny the petition. After
5 six months ~~shall have expired~~ from the date of the denial of any such petition, subsequent
6 petitions covering the same or substantially the same territory may be filed as provided by § 38-
7 8-1 and new hearings may be held and determinations made ~~thereon~~ on the subsequent petitions.

8 Section 47. That § 38-8-6 be amended to read as follows:

9 38-8-6. After the State Conservation Commission has made and recorded a determination
10 that there is need for the organization of a district in a particular territory and has defined the
11 boundaries ~~thereof, it~~ of the district, the commission shall consider the question whether the
12 operation of a district within such boundaries with the powers conferred upon conservation
13 districts in this chapter is administratively practicable and feasible.

14 Section 48. That § 38-8-12 be amended to read as follows:

15 38-8-12. The Division of Resource Conservation and Forestry shall publish the result of
16 ~~such the~~ referendum and the State Conservation Commission shall thereafter consider and
17 determine whether the operation of the district within the defined boundaries is administratively
18 practicable and feasible. If the commission ~~shall determine~~ determines that the operation of ~~such~~
19 the district is not administratively practicable and feasible, ~~it the commission~~ shall record ~~such~~
20 its determination and deny the petition. If the commission ~~shall determine~~ determines that the
21 operation of ~~such the~~ district is administratively practicable and feasible, ~~it the commission~~ shall
22 record ~~such its~~ determination and the Division of Resource Conservation and Forestry shall
23 proceed with the organization of the district in the manner provided in §§ 38-8-15 to 38-8-17,
24 inclusive.

Section 49. That § 38-8-14 be amended to read as follows:

38-8-14. After six months ~~shall have expired~~ from the date of entry of a determination by the State Conservation Commission that operation of a proposed district is not administratively practicable and feasible and denial of a petition pursuant to such determination, subsequent petitions may be filed as provided by § 38-8-1, and action taken ~~thereon~~ on the subsequent petitions in accordance with the provisions of this chapter.

Section 50. That § 38-8-17 be amended to read as follows:

38-8-17. The secretary of state shall file and record the application and statement required by § 38-8-16 in an appropriate book of record in ~~his~~ the secretary's office and shall make and issue to the ~~said~~ supervisors a certificate, under the seal of the state, of the due organization of the ~~said~~ district, ~~and shall record such~~. The secretary of state shall record the certificate with the application and statement. The secretary of state ~~shall~~ may make no charge for the services ~~herein~~ required in this section.

Section 51. That § 38-8-18 be amended to read as follows:

38-8-18. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of a conservation district, the district ~~shall be~~ is deemed to have been established in accordance with the provisions of this chapter upon proof of the issuance by the secretary of state of the certificate described by § 38-8-17. A copy of ~~such~~ the certificate duly certified by the secretary of state ~~shall be~~ is admissible in evidence in any such suit, action, or proceeding and ~~shall be~~ is proof of the filing and contents ~~thereof~~ of the certificate.

Section 52. That § 38-8-20 be amended to read as follows:

38-8-20. Supervisors of a conservation district ~~are hereby authorized, to~~ may amend the district charter of organization; to include lands previously excluded from the district and lying

1 within the district boundaries as ~~hereinafter~~ provided in this chapter.

2 The conservation district supervisors shall give due notice, as determined by the supervisors,
3 of the intent to include such lands within the district; and ~~said the notice to~~ shall include the
4 time, date, and place of a hearing upon the inclusion of such lands. ~~Said~~ The notice shall be
5 given not less than thirty days ~~prior to~~ before the date set for ~~said the~~ hearing. All persons
6 attending the hearing shall have an opportunity to be heard on the proposition of including ~~such~~
7 the lands within the district.

8 Section 53. That § 38-8-24 be amended to read as follows:

9 38-8-24. If the State Conservation Commission ~~shall determine~~ determines upon the facts
10 presented at the hearing pursuant to § 38-8-23 and information as may be available that the
11 combination of ~~such the~~ districts or territory is economically practicable and feasible, the
12 commission shall make and record ~~such the~~ determination. If the commission ~~shall determine~~
13 determines after ~~such the~~ hearing and giving due consideration to ~~said the~~ facts and information
14 that combination of ~~such the~~ districts or territory is not practicable or economically feasible ~~such~~
15 the commission shall deny the petition ~~shall be denied~~.

16 Section 54. That § 38-8-46 be amended to read as follows:

17 38-8-46. A supervisor of a conservation district may receive compensation for ~~his~~ services
18 performed and ~~he shall be~~ is entitled to expenses, including traveling expenses, necessarily
19 incurred in the discharge of ~~his~~ the supervisor's duties.

20 Section 55. That § 38-8-49 be amended to read as follows:

21 38-8-49. A conservation district organized under the provisions of this chapter ~~shall~~
22 ~~constitute~~ constitutes a governmental subdivision of this state, and a public body, corporate and
23 politic, exercising public powers; ~~and such district, and the supervisors thereof, shall have.~~ The
24 district has the following powers, in addition to others granted in other sections of this chapter:

- 1 (1) To sue and be sued in the name of the district;
- 2 (2) To have a seal, which seal shall be judicially noticed;
- 3 (3) To have perpetual succession unless terminated as hereinafter provided;
- 4 (4) To make and execute contracts and other instruments, necessary or convenient to the
- 5 exercise of its powers.

6 Section 56. That § 38-8-50 be amended to read as follows:

7 38-8-50. A conservation district, ~~and the supervisors thereof, shall have the power, in~~
8 ~~addition to others granted in other sections of this chapter, to~~ may develop annual and long
9 range ten-year comprehensive plans, ~~which. The~~ plans may be prepared with the cooperation
10 and assistance of ~~the State Planning Commission and other state and federal agencies; and may~~
11 provide for the conservation of all renewable natural resources and for the control and
12 prevention of soil erosion, flood prevention, ~~or~~ and the conservation and development,
13 utilization, and disposal of soil and water within the district, ~~including but not limited to, the~~
14 ~~specification of engineering operations, methods of cultivation, pollution abatement, cropping~~
15 ~~systems, and changes in the use of land for all purposes. Such . The~~ plans shall be developed
16 and modified each year to maintain a ten-year projection.

17 Section 57. That § 38-8-53 be amended to read as follows:

18 38-8-53. There has been appropriated the sum of one hundred twenty-five thousand dollars,
19 to be used as a special revenue fund for the purpose of aiding, assisting, and cooperating with
20 conservation districts of the state in securing by purchase, or otherwise, necessary equipment,
21 trees, and other planting materials; and supplies as needed in furthering the program of
22 conservation in these districts.

23 ~~This~~ The fund ~~shall be~~ is known as the conservation district special revenue fund and shall
24 be administered by the State Conservation Commission and ~~shall be~~ expended upon vouchers

1 approved by the commission, or its designated representative.

2 ~~This~~ The fund shall be made available to conservation districts of the state on a reimbursable
3 basis by the districts participating in such special revenue funds, in accordance with rules ~~and~~
4 ~~regulations~~ promulgated by the ~~said conservation~~ commission pursuant to chapter 1-26.

5 Section 58. That § 38-8-53.1 be amended to read as follows:

6 38-8-53.1. The conservation district special revenue fund shall be made available to
7 watershed districts of the state on a reimbursable basis, by watershed districts participating in
8 such special revenue funds, for the purpose of obtaining options, easements, and rights-of-way
9 for watershed development. ~~Such~~ The loans shall be in accordance with rules ~~and regulations~~
10 ~~prescribed promulgated pursuant to chapter 1-26~~ by the State Conservation Commission and
11 shall be expended upon vouchers approved by the commission or its delegated representative.

12 Section 59. That § 38-8-54 be amended to read as follows:

13 38-8-54. A conservation district, ~~and the supervisors thereof, shall have the power, in~~
14 ~~addition to others granted in other sections of this chapter, to~~ may make loans from the State of
15 South Dakota from funds available through the conservation district special revenue fund on a
16 reimbursable basis in accordance with policies and procedures prescribed by the State
17 Conservation Commission in rules promulgated pursuant to chapter 1-26.

18 Section 60. That § 38-8-58 be amended to read as follows:

19 38-8-58. A conservation district, ~~and the supervisors thereof, shall have the following~~
20 ~~powers, in addition to others granted in other sections of this chapter~~ may:

21 (1) ~~To obtain~~ Obtain options upon and to acquire by purchase, exchange, lease, gift,
22 grant, bequest, devise, or otherwise, any property, real or personal, or rights or
23 interests therein;

24 (2) ~~To maintain~~ Maintain, administer, and improve any properties acquired;

1 (3) ~~To receive~~Receive income from such properties and ~~to expend such the~~ income in
2 carrying out the purposes and provisions of this chapter; and

3 (4) ~~To sell~~Sell, lease, or otherwise dispose of any of its property or interest ~~therein in the~~
4 property in furtherance of the purposes and the provisions of this chapter.

5 Section 61. That § 38-8-60 be amended to read as follows:

6 38-8-60. A conservation district, ~~and the supervisors thereof, shall have the power, in~~
7 ~~addition to others granted in other sections of this chapter, to~~ may construct, improve, operate,
8 and maintain such structures as may be necessary or convenient for the performance of any of
9 the operations authorized in this chapter.

10 Section 62. That § 38-8-61 be amended to read as follows:

11 38-8-61. A conservation district, ~~and the supervisors thereof, shall have the power, in~~
12 ~~addition to others granted in other sections of this chapter, to~~ may carry out soil erosion
13 preventive and control measures and works of improvement for flood prevention or the
14 conservation development, utilization, and disposal of water within the districts on lands owned
15 or controlled by this state or any of its agencies, with the cooperation of the agency
16 administering and having jurisdiction ~~thereof~~ over the lands, and on any other lands within the
17 district upon obtaining the consent of the occupier of ~~such the~~ lands or the necessary rights or
18 interest in ~~such the~~ lands.

19 Section 63. That § 38-8-62 be amended to read as follows:

20 38-8-62. A conservation district, ~~and the supervisors thereof, shall have the following~~
21 ~~powers, in addition to others granted in other sections of this chapter~~ may:

22 (1) ~~To take~~Take over, by purchase, lease, or otherwise, and ~~to~~ administer any soil
23 conservation, flood prevention, and agricultural water management, erosion control,
24 or erosion prevention project located within its boundaries undertaken by the United

1 States or any of its agencies, or ~~of by~~ by this state or any of its agencies;

2 (2) ~~To manage~~ Manage, as agent of the United States or any of its agencies, or of this
3 state or any of its agencies, any soil conservation, flood prevention, and agricultural
4 water management, erosion control, or erosion prevention project, or combinations
5 thereof, within its boundaries;

6 (3) ~~To act~~ Act as agent for the United States or any of its agencies, or for this state or any
7 of its agencies, in connection with the acquisition, construction, operation, or
8 administration of any soil conservation, flood prevention, and agricultural water
9 management, erosion control, or erosion prevention project, or combinations thereof,
10 within its boundaries; and

11 (4) ~~To accept~~ Accept donations, gifts, and contributions in money, services, materials, or
12 otherwise, from the United States or any of its agencies, or from this state, or any of
13 its agencies, or from any other source, and ~~to~~ may use or expend such money,
14 services, materials, or other contributions in carrying on its operation.

15 Section 64. That § 38-8-63 be amended to read as follows:

16 38-8-63. A conservation district, ~~and the supervisors thereof, shall have the power, in~~
17 ~~addition to others granted in other sections of this chapter, to~~ may cooperate; or enter into
18 agreements with, and within the limits of appropriations duly made available to it by law, ~~to~~ may
19 furnish financial or other aid to any agency, governmental or otherwise, or any occupier of lands
20 within the district, in carrying on ~~of~~ erosion control and prevention operations and works of
21 improvement for flood prevention for the conservation, development, utilization, and disposal
22 of water within the district, subject to such conditions as the supervisors ~~may~~ deem necessary
23 to advance the purposes of this chapter.

24 Section 65. That § 38-8-64 be amended to read as follows:

1 38-8-64. A conservation district, ~~and the supervisors thereof, shall have the power, in~~
2 ~~addition to others granted in other sections of this chapter, to~~ may make available, on such terms
3 as ~~it shall prescribe~~ the district prescribes, to land occupiers within the district, such equipment,
4 material, or supplies as may be available to assist ~~such~~ the land occupiers to carry on operations
5 upon their lands for the conservation of soil and water resources ~~and, for the prevention and~~
6 control of soil erosion, for flood prevention ~~of, and for~~ the conservation, development,
7 utilization, and disposal of water.

8 Section 66. That § 38-8-91 be amended to read as follows:

9 38-8-91. The State Conservation Commission ~~shall~~ may not entertain petitions for the
10 discontinuance of any district nor conduct referenda upon ~~such~~ the petitions nor make
11 determinations pursuant to ~~such~~ the petitions in accordance with the provisions of this chapter,
12 more often than once in three years.

13 Section 67. That § 38-8-95 be amended to read as follows:

14 38-8-95. No informalities in the conduct of a referendum pursuant to § 38-8-92 or in any
15 matters relating thereto ~~shall~~ may invalidate ~~said~~ the referendum or the result ~~thereof~~ of the
16 referendum if notice ~~thereof shall have~~ has been given substantially as provided in subdivision
17 38-7-2(5) and ~~said~~ the referendum ~~shall have~~ has been fairly conducted.

18 Section 68. That § 38-8-99 be amended to read as follows:

19 38-8-99. Upon issuance of a certificate of dissolution under the provisions of this chapter,
20 all ordinances and regulations ~~theretofore~~ previously adopted and in force within the
21 conservation district ~~shall be of~~ have no further force and effect. All contracts ~~theretofore~~
22 previously entered into, to which the district or supervisors are parties, shall remain in force and
23 effect for the period provided in ~~such~~ the contracts. The Division of Resource Conservation and
24 Forestry shall be substituted for the district or supervisors as party to ~~such~~ the contracts. The

1 division shall be entitled to all benefits and subject to all liabilities under ~~such~~ the contracts and
2 shall have the same right and liability to perform, to require performance, to sue and to be sued
3 thereon, and to modify or terminate ~~such~~ the contracts by mutual consent or otherwise, as the
4 supervisors of the district would have had. ~~Such~~ The dissolution ~~shall~~ does not affect the lien
5 of any judgment entered under the provisions of this chapter, nor the pendency of any action
6 instituted under the provisions of ~~such~~ this chapter, and the division shall succeed to all the
7 rights and obligations of the district or supervisors as to such liens and actions.

8 Section 69. That § 38-8A-12.1 be amended to read as follows:

9 38-8A-12.1. A petition pursuant to § 38-8A-12 shall be filed with the conservation district
10 supervisors. ~~The filing of a petition shall require the submission of the named~~ If a petition is
11 filed, the proposed revision to the conservation district standards shall be submitted to an
12 election of the qualified voters of the district. However, if the supervisors approve the proposed
13 revision before the election, the election ~~shall not proceed~~ need not be conducted.

14 Section 70. That § 38-10-8 be amended to read as follows:

15 38-10-8. A member of the wheat commission ~~shall be removable~~ may be removed by the
16 Governor for cause. In addition to all other causes, the fact that a member ceases to be a resident
17 of the state, live in the district from which ~~he~~ the member was appointed, or be actually engaged
18 in growing wheat in the state ~~shall be deemed~~ is sufficient cause for removal from office.

19 Section 71. That § 38-10-9 be amended to read as follows:

20 38-10-9. ~~Ex officio members of the wheat commission shall be the~~ The South Dakota
21 secretary of agriculture, the dean of agriculture of the South Dakota State University, and the
22 president of the South Dakota Crop Improvement Association, ~~such~~ are ex officio members of
23 the wheat commission. The ex officio members do not ~~having~~ have a vote on the commission.

24 Section 72. That § 38-10-17 be amended to read as follows:

1 38-10-17. The wheat commission ~~shall not be authorized to~~ may not set up research or
2 development units or agencies of its own, but shall limit its activity to cooperation and contracts
3 with proper local, state, or national organizations, public or private, in carrying out the purposes
4 of this chapter.

5 Section 73. That § 38-10-18 be amended to read as follows:

6 38-10-18. In connection with and in furtherance of the policy and purpose declared in § 38-
7 10-1, the wheat commission ~~shall have the power to~~ may adopt and devise a program of
8 education and publicity.

9 Section 74. That § 38-10-23 be amended to read as follows:

10 38-10-23. The fee, ~~herein levied and imposed by the provisions of § 38-10-22, shall~~ does
11 not apply to the sale of wheat to the federal government for ultimate use or consumption by the
12 people of the United States, ~~where~~ if the State of South Dakota is prohibited from imposing ~~such~~
13 the fee by the Constitution of the United States and laws enacted pursuant thereto.

14 Section 75. That § 38-10-28 be amended to read as follows:

15 38-10-28. In the case of a pledge or mortgage of wheat as security for a loan under the
16 federal price support program, the fee assessed by § 38-10-22 shall be deducted from the
17 proceeds of ~~such loans~~ the loan at the time the ~~loans are~~ loan is made, or be deducted thereafter
18 by agencies of the federal government, ~~and producer's note and loan agreement (commodity loan~~
19 ~~Form B) or producer's note and supplemental loan agreement (commodity loan Form A) or~~
20 ~~delivery instructions (commodity purchaser Form 3)~~ using Form CCC-677 or Form CCC-678
21 (farm or warehouse storage note and security agreement) or Form CCC-692 (settlement
22 statement) issued by the federal agency to the grower, which are hereby approved as fulfilling
23 the requirements for invoices, ~~and the forms herein approved shall be.~~ The forms approved in
24 this section are deemed to constitute proof of payment of ~~such~~ the promotional fee on the wheat

1 listed ~~thereon~~ on the forms.

2 Section 76. That § 38-10-30 be amended to read as follows:

3 38-10-30. The Commodity Credit Corporation's use of identification numbers in lieu of the
4 name of the grower from whom the fee was collected is hereby approved, such approval being
5 in consideration of assurance received from the Commodity Credit Corporation that authorized
6 officials of the State of South Dakota will have access at all reasonable times to records in the
7 county ~~agricultural stabilization and conservation~~ United States Department of Agriculture Farm
8 Service Agency offices showing the names of growers to whom such identification numbers
9 have been assigned.

10 Section 77. That § 38-10-31 be amended to read as follows:

11 38-10-31. If ~~such~~ wheat; described in § 38-10-28; remains in farm storage for the duration
12 of ~~such~~ the pledge or mortgage, the promotional fee ~~so~~ paid at the time the loan was made ~~shall~~
13 ~~be~~ is deemed a complete satisfaction of the promotional fee liability unless upon subsequent
14 actual delivery of ~~such~~ the wheat from farm storage in satisfaction of the pledge, or mortgage
15 in the amount of one dollar or more, ~~such~~ the underpayment ~~being~~ is due solely ~~for~~ to the
16 necessity of estimating the quantity of wheat ~~so~~ placed in farm storage.

17 Section 78. That § 38-10-33 be amended to read as follows:

18 38-10-33. If any person, business or entity, public or private, subject to the fee under § 38-
19 10-22, fails to make a report and remittance when and as required in this chapter, the executive
20 director of the wheat commission shall determine the amount of ~~such~~ the fee according to ~~his~~
21 the director's best judgment and information, ~~which amount so fixed. The amount~~ shall be prima
22 facie correct, and ~~such person so having~~ the person who failed to make ~~such~~ the report shall,
23 within ten days after notice of the amount of the fee ~~so~~ fixed and computed by the director is
24 mailed to ~~such~~ the person, pay ~~said~~ the fee, together with a penalty of five percent on the amount

1 of the fee; or ~~he~~ the person may dispute the fee as fixed by the director and request the
2 commission to hold a hearing to determine the amount of the fee and penalty to be imposed. No
3 payment may be made until the commission enters its order determining the amount of ~~such~~ the
4 payment, but ~~such~~ the payment shall be paid within ten days of notice of ~~such~~ the decision.

5 Section 79. That § 38-11-4 be amended to read as follows:

6 38-11-4. The State Seed Certification Board shall hold its meetings at the seat of
7 government at such times as it designates, ~~but there shall not be more than~~ not to exceed four
8 regular meetings each year, including the annual meeting, which shall be held on the last
9 Tuesday of January of each year, ~~at which.~~ At the annual meeting the president, vice-president,
10 and secretary shall be elected for the ensuing year; ~~provided that the.~~ The president of the board
11 ~~shall have power to~~ may call special meetings ~~whenever in his judgment he finds it necessary.~~

12 Section 80. That § 38-12A-30 be amended to read as follows:

13 38-12A-30. The members of the arbitration committee ~~shall~~ may receive no compensation
14 for the performance of their duties, but the members of the committee shall be reimbursed for
15 expenses ~~when~~ if they attend a meeting or perform a service in conformity with the requirements
16 of this chapter. The expenses shall be paid by the party demanding arbitration under the
17 provisions of this chapter.

18 Section 81. That § 38-15-1 be amended to read as follows:

19 38-15-1. Terms used in this chapter, ~~unless the context otherwise plainly requires,~~ shall
20 mean:

- 21 (1) "Closed containers," any containers closed so as to be secure for handling;
- 22 (2) "Label," any tag, label, or other device attached, written, stamped, printed, or
23 stenciled on any closed container setting forth the grade, condition, quality, weight,
24 variety, or class of the potatoes contained therein;

(3) "Potatoes," ~~that~~ the edible vegetable commonly known as white or Irish potatoes.

Section 82. That § 38-15-12 be amended to read as follows:

38-15-12. No person either ~~for himself~~ as an individual or while acting as agent or servant for any other person ~~shall~~ may sell, consign for sale, offer or expose for sale, have in possession or storage with intent for sale, or ~~to~~ deliver within the State of South Dakota or ~~to~~ convey or cause to be conveyed out of the State of South Dakota, any potatoes which are mislabeled within the meaning of this chapter or the ~~regulations~~ rules promulgated pursuant ~~thereto~~ to this chapter, or which are falsely labeled, represented, or advertised in any respect, whether they are in closed containers or in open containers or in bulk and regardless of the quantity. Any violation of this section is a Class 2 misdemeanor.

Section 83. That § 38-15-18 be amended to read as follows:

38-15-18. The secretary of agriculture shall ~~adopt~~ promulgate rules pursuant to ~~the provisions of chapter 1-26; to fix any fees charged for making grade inspections and such.~~ The fees shall be uniform throughout the state for the periods of time specified.

Section 84. That § 38-15-34 be amended to read as follows:

38-15-34. Upon complaint made by the secretary of agriculture alleging violation of this chapter or of the ~~regulations duly made thereunder, it shall be the duty of~~ rules promulgated pursuant to this chapter, the attorney general and ~~of the state's attorney in the county where the~~ case arises ~~to~~ shall cause appropriate legal proceedings to be commenced and prosecuted in the proper courts without delay for the enforcement of the penalties as provided in this chapter.

Section 85. That § 38-17-2 be amended to read as follows:

38-17-2. In the absence of filing pursuant to § 38-17-1, the provision of any such contract reserving title to the grain or seed produced from a crop growing or to be grown upon any lands in this state in the landlord ~~shall~~ do not apply to ~~or~~ and may not be enforced against an innocent

1 purchaser of ~~such~~ the grain or seeds or against any innocent encumbrancer perfecting a security
2 interest in ~~such~~ the grain or seeds under the provisions of Title 57A.

3 Section 86. That § 38-17-6 be amended to read as follows:

4 38-17-6. ~~Where~~ If the person furnishing any seed grain under the provisions of §§ 38-17-3
5 to 38-17-9, inclusive, is not a resident of this state, the affidavit required by § 38-17-5 may be
6 made by ~~an~~ the person's attorney or agent ~~of such person residing in this state, and in such case~~
7 ~~such who is a resident of this state, in which case the~~ affidavit shall ~~set forth the fact of~~ indicate
8 the nonresidence of ~~such~~ the person; and ~~also the fact of~~ the residence of ~~such~~ the attorney or
9 agent.

10 Section 87. That § 38-17-7 be amended to read as follows:

11 38-17-7. ~~It shall be the duty of the~~ The register of deeds ~~to~~ shall file and enter the statements
12 required by § 38-17-5 in the manner required by law in the personal property index. The filing
13 of ~~said~~ the statements in conformity to §§ 38-17-5 and 38-17-6 operates as a notice of ~~said~~ the
14 lien to all subsequent purchasers and encumbrancers of ~~said~~ the property.

15 Section 88. That § 38-17-8 be amended to read as follows:

16 38-17-8. Liens under §§ 38-17-3 to 38-17-7, inclusive, if filed within thirty days after the
17 seed grain is furnished, ~~shall~~ have preference in the order of the filing ~~thereof~~, and ~~shall~~ the liens
18 have priority over all other liens and encumbrances upon ~~said~~ the crops, except threshers' liens.

19 Section 89. That § 38-17-11 be amended to read as follows:

20 38-17-11. The ~~said~~ lien of the United States or its agency ~~shall be~~ is perfected by filing, in
21 like manner as similar lien notices or accounts are filed under § 38-17-5, in the office of the
22 register of deeds of the county where ~~such~~ the seed is to be planted, a notice in writing, verified
23 by the oath of the officer, agent, or representative of ~~such~~ the government or agency thereof
24 furnishing the seed or making the loan, ~~which~~. The notice shall show: the kind, quantity, and

1 value of the seed furnished or the amount of money loaned; the name of the person to whom the
2 seed was furnished or the money loaned; and a description of the lands upon which the seed has
3 been or is to be sown or planted.

4 Section 90. That § 38-17-12 be amended to read as follows:

5 38-17-12. ~~Whoever~~ Any person who misappropriates any of the seed, or money loaned to
6 purchase the ~~same~~ seed, furnished by the United States or any agency thereof, or any crop grown
7 ~~therefrom~~ from such seed, and for which ~~it may~~ the United States or any agency thereof has a
8 lien under the provisions of § 38-17-10, to any purpose except that for which it was furnished
9 or produced, is guilty of a Class 1 misdemeanor.

10 Section 91. That § 38-17-14 be amended to read as follows:

11 38-17-14. ~~Every~~ Any person owning and operating a threshing machine, combine,
12 cornsheller, cornhusker, corn shredder, silage cutter, seed huller, baler, mower, grinder, rake,
13 or agricultural pulverizing machine, ~~shall have~~ has a lien from the date of threshing, combining,
14 shelling, husking, shredding, cutting, hulling, baling, mowing, grinding, raking, or pulverizing,
15 upon all grain threshed or combined, corn shelled, husked or shredded, silage cut, seeds hulled,
16 or agricultural products baled, mowed, ground, raked, or pulverized by ~~him~~ the person with ~~such~~
17 the machine for the value of the services so rendered in doing ~~such~~ the threshing, combining,
18 shelling, husking, shredding, cutting, or hulling, baling, mowing, grinding, raking, or
19 pulverizing.

20 Section 92. That § 38-17-15 be amended to read as follows:

21 38-17-15. Any person entitled to a lien under § 38-17-14 shall make an account in writing
22 stating the kind of grain, and the quantity harvested, threshed, shelled, or otherwise processed,
23 the price agreed upon for ~~such~~ the work, which ~~shall not be in excess of~~ may not exceed the
24 price usually charged for such service, the name of the person for whom ~~said~~ the work was

1 done, and a description of the land upon which ~~said the~~ crop was grown, ~~and after.~~ After making
2 oath to the correctness of the account, the person shall file the ~~same~~ account in the office of the
3 register of deeds in the county in which the land from which ~~said the~~ crop was produced is
4 located, and also in the county of the residence of the person who produced ~~said the~~ crop, if ~~he~~
5 ~~be the person is~~ a resident of South Dakota. ~~It shall be the duty of the~~ The register of deeds to
6 shall file and enter ~~said the~~ account in the manner required by law in the personal property
7 index, and ~~such the~~ filing ~~shall operate~~ serves as notice to all purchasers and encumbrancers
8 subsequent to the date of ~~said the~~ filing.

9 Section 93. That § 38-17-17 be amended to read as follows:

10 38-17-17. The provisions of § 38-17-14 ~~shall do~~ not apply to an innocent purchaser of the
11 grain, corn seeds, or agricultural products baled, mowed, ground, raked, or pulverized after the
12 threshing, combining, shelling, husking, shredding, cutting, hulling, baling, mowing, grinding,
13 raking, or pulverizing, unless the ~~said~~ lien ~~be~~ is filed within ten days after completion of the
14 service.

15 Section 94. That § 38-18-9 be amended to read as follows:

16 38-18-9. Any hive which is infested with pests and in which the bees have died, shall be
17 made tight so that robber bees cannot enter or leave the hive. The sealing of the hive shall be
18 maintained as long as the hive remains infested with pests or remains in the apiary or in any
19 place where robber bees can gain access to it. Any violation of this section is a Class 1
20 misdemeanor. In addition to the criminal penalty imposed by this section, a person is subject to
21 a further penalty not in excess of five hundred dollars for each day ~~he~~ the person remains in
22 violation of this section.

23 Section 95. That § 38-18-10 be amended to read as follows:

24 38-18-10. Any colony or apiary infested with a regulated pest is a public nuisance. The

owner or person in charge of maintaining an apiary shall, upon finding that a regulated pest is present in the apiary, immediately treat the regulated pest or destroy or remove the infested apiary or upon receiving written notice pursuant to § 38-18-16 comply with such notice. Any violation of this section is a Class 1 misdemeanor. In addition to the criminal penalty imposed by this section, a person is subject to a further penalty not to exceed five hundred dollars per day, for each day ~~he~~ the person remains in violation of this section.

Section 96. That § 38-18-11 be amended to read as follows:

38-18-11. No person may expose any bees, bee equipment, or appliances infected with pests in a manner or in a place where the pest could be transmitted or disseminated to other bees or bee equipment. Any violation of this section is a Class 1 misdemeanor. In addition to the criminal penalty imposed by this section, a person is subject to a further penalty not to exceed five hundred dollars per day for each day ~~he~~ the person remains in violation of this section.

Section 97. That § 38-18-13 be amended to read as follows:

38-18-13. It is a Class 1 misdemeanor for any person to knowingly give false or incomplete information in any application or permit required by this chapter or to resist, impede, or hinder the secretary in the discharge of ~~his~~ duties established pursuant to this chapter.

Section 98. That § 38-18-19 be amended to read as follows:

38-18-19. The secretary may place any apiaries, bees, bee equipment, bee products, honey houses, or appliances where regulated pests are found to exist under quarantine. The removal or handling of any quarantined bees, apiaries, bee equipment, honey houses, or appliances without the written permission of the secretary; is a Class 1 misdemeanor. A quarantine shall exist until the secretary determines the bee, apiary, bee equipment, honey house, or appliance is apparently free from the regulated pest. The secretary may quarantine additional premises ~~he~~ the secretary considers necessary.

Section 99. That § 38-19-26 be amended to read as follows:

38-19-26. In lieu of the guaranteed analysis, the person who mixes to the customer's order ~~must~~ shall furnish to the purchaser and consumer a written or printed statement showing the weight and guaranteed analysis of each of the fertilizer materials used in the intimate mixture or delivered in each of the separate compartments in the load.

Section 100. That § 38-19-28 be amended to read as follows:

38-19-28. The secretary of agriculture may ~~in his discretion~~ hold public hearing open to all interested parties and with the aid of available and impartial data promulgate a list of grades of mixed fertilizers recommended as adapted to the agricultural needs of the state. Immediately after such hearing or as nearly as practicable thereafter ~~it shall be the duty of~~ the secretary, with the cooperation of the agricultural experiment station and the extension service ~~to~~, shall give wide publicity to ~~such~~ the list of adapted grades of mixed fertilizers so the consumers may profit by this information and avoid loss of time and money by the use of fertilizers not adapted to their soil needs.

Section 101. That § 38-19-30 be amended to read as follows:

38-19-30. ~~It shall be the duty of the secretary of agriculture, who may act through his authorized agents, to~~ The secretary of agriculture or the secretary's authorized agent shall inspect and sample commercial fertilizers offered for sale, sold, or distributed within this state at ~~such~~ a time and place and to ~~such an~~ the extent ~~as he may deem~~ the secretary deems necessary to determine whether ~~such~~ the commercial fertilizers are in compliance with the provisions of this chapter, ~~and the secretary shall have the further authority to~~. The secretary may obtain such additional information as ~~he may deem~~ the secretary deems advisable.

Section 102. That § 38-19-32 be amended to read as follows:

38-19-32. ~~It shall be the duty of the~~ The director of laboratories ~~to~~ shall examine all samples

submitted under the provisions of this chapter and ~~to~~ shall report results promptly to the secretary of agriculture.

Section 103. That § 38-19-34 be amended to read as follows:

38-19-34. The secretary of agriculture ~~shall have authority to~~ may publish analyses of all products within the purview of this chapter and ~~to~~ may gather and disseminate for the benefit of the public useful information concerning fertilizers and fertilizer materials.

Section 104. That § 38-19-35 be amended to read as follows:

38-19-35. The secretary of agriculture shall publish at least annually, in such forms as ~~he~~ may deem the secretary deems proper, information concerning the sales of commercial fertilizers, together with such data on their production and use as ~~he may consider~~ the secretary considers advisable, ~~and. The secretary shall~~ report of the results of the analyses based on official samples of commercial fertilizers sold within the state as compared with the analyses guaranteed under § 38-19-15. ~~Provided, however, that~~ However, the information concerning production and use of commercial fertilizers shall be shown separately for the periods July first to December thirty-first and January first to June thirtieth of each year, and no disclosure ~~shall~~ may be made of the operations of any person.

Section 105. That § 38-19-37 be amended to read as follows:

38-19-37. The secretary of agriculture ~~is charged with the administration and enforcement of~~ shall administer and enforce this chapter ~~and he and his.~~ The secretary and the secretary's deputies, assistants, agents, and employees ~~shall~~ have all the rights of visitation, inspection, sampling, examination, and access to places, property, containers and records, and prosecution, ~~as the same that~~ that are provided in this title or in any of the chapters of Title 39.

Section 106. That § 38-19-38 be amended to read as follows:

38-19-38. ~~It shall be the duty of the~~ The secretary of agriculture ~~to~~ shall issue and enforce

1 a written or printed "stop-sale, use, or removal" order to the owner or custodian of any lot of
2 commercial fertilizer and ~~to~~ shall hold the commercial fertilizer at a designated place ~~when~~ if
3 the secretary finds ~~said~~ that the commercial fertilizer is being offered or exposed for sale in
4 violation of any of the provisions of this chapter or any ~~regulation issued hereunder~~ rule
5 promulgated pursuant to this chapter, until the law has been complied with and ~~said~~ the
6 commercial fertilizer is released in writing by the secretary or ~~said~~ the violation has been
7 otherwise legally disposed of by written authority.

8 Section 107. That § 38-19-39 be amended to read as follows:

9 38-19-39. Any lot of commercial fertilizer not in compliance with the provisions of this
10 chapter ~~shall be~~ is subject to seizure and condemnation on complaint of the secretary of
11 agriculture to a court of competent jurisdiction in the area in which ~~said~~ the commercial
12 fertilizer is located. ~~In the event~~ If the court finds the ~~said~~ commercial fertilizer to be in violation
13 of this chapter and orders the condemnation of ~~said~~ the commercial fertilizer it shall be disposed
14 of in any manner consistent with the quality of the commercial fertilizer and the laws of this
15 state; ~~provided, that~~ However, in no instance ~~shall~~ may the disposition of ~~said~~ the commercial
16 fertilizer be ordered by the court without first giving the claimant an opportunity to apply to the
17 court for the release of ~~said~~ the commercial fertilizer or for permission to process or relabel ~~said~~
18 the commercial fertilizer to bring it into compliance with this chapter.

19 Section 108. That § 38-19-43 be amended to read as follows:

20 38-19-43. Nothing in this chapter ~~shall be construed as requiring~~ requires the secretary of
21 agriculture or ~~his~~ the secretary's representative to report minor violations of the chapter for
22 prosecution, or for the institution of seizure proceedings, ~~minor violations of the chapter when~~
23 ~~he~~ if the secretary believes that the public interests will be best served by a suitable notice of
24 warning in writing.

Section 109. That § 38-19A-2 be amended to read as follows:

38-19A-2. No person ~~shall~~ may distribute an adulterated soil amendment. A soil amendment ~~shall be deemed to be~~ is adulterated if it contains any deleterious or harmful agent in sufficient amount to render it injurious to beneficial plant, animal or aquatic life ~~when~~ if applied in accordance with directions for use on the label or if it ~~the soil amendment~~ contains unwanted crop or weed seed.

Section 110. That § 38-19A-3 be amended to read as follows:

38-19A-3. No person ~~shall~~ may distribute any misbranded soil amendment. A soil amendment ~~shall be deemed~~ is misbranded if its labeling is false or misleading in any particular, or if it is not labeled as required pursuant to the provisions of this chapter and ~~regulations~~ rules promulgated pursuant to this chapter, or if it does not conform to ingredient form, minimums, and investigational allowances in the ~~regulations adopted~~ rules promulgated by the secretary of agriculture.

Section 111. That § 38-19A-5 be amended to read as follows:

38-19A-5. No distributor ~~shall be~~ is required to register any brand of soil amendment ~~which shall have that is already been registered under this chapter by another person; provided, however, that~~ if the label does not differ in any respect.

Section 112. That § 38-19A-8 be amended to read as follows:

38-19A-8. No information or statement ~~shall~~ may appear on any package, label, delivery slip, or advertising matter nor ~~shall~~ may any oral claim be made ~~which that~~ is false or misleading to the purchaser as to the use, value, quality, analysis, type, or composition of the soil amendment.

Section 113. That § 38-19A-9 be amended to read as follows:

38-19A-9. The secretary of agriculture may require proof of claims made for any soil

1 amendment. If no claim is made, ~~he~~ the secretary may, nevertheless, require proof of usefulness
2 and value as a soil amendment. For evidence of proof the secretary may rely on experimental
3 data, evaluations, or advice supplied from the agricultural experiment station. The experimental
4 results shall be applicable to ~~such~~ the regional conditions ~~as to~~ for which the product is intended.
5 The secretary may accept other sources of proof as additional evidence in evaluating soil
6 amendments.

7 Section 114. That § 38-19A-13 be amended to read as follows:

8 38-19A-13. The secretary of agriculture shall sample, inspect, make analyses of, and test soil
9 amendments distributed within the state at any time and place and to such an extent as ~~he may~~
10 ~~deem~~ the secretary deems necessary to determine whether ~~such~~ the soil amendments are in
11 compliance with the provisions of this chapter. The secretary may enter upon any public or
12 private premises or carriers during regular business hours in order to have access to soil
13 amendments subject to the provisions of this chapter and the rules ~~and regulations~~ pertaining
14 ~~thereto and to the soil amendments and to have access to the records relating to their distribution~~
15 of the soil amendments.

16 Section 115. That § 38-19A-14 be amended to read as follows:

17 38-19A-14. The secretary of agriculture may refuse registration of any brand of soil
18 amendment if ~~he shall find~~ the secretary finds the brand of soil amendment violates any section
19 of this chapter or the rules ~~and regulations~~ promulgated pursuant to this chapter. The secretary
20 may cancel the registration of any brand of soil amendment upon satisfactory evidence that the
21 registrant has used fraudulent or deceptive practices to evade the provisions of this chapter, or
22 any rules ~~or regulations promulgated thereunder~~ promulgated pursuant to this chapter. However,
23 no registration ~~shall~~ may be revoked until the registrant ~~shall have~~ has been given the
24 opportunity to appear for a hearing.

Section 116. That § 38-19A-17 be amended to read as follows:

38-19A-17. The secretary of agriculture may issue and enforce a written or printed "stop sale, use, or removal" order to the owner or custodian of any lot of soil amendment and to may hold at a designated place ~~when~~ if the secretary finds ~~such~~ the soil amendment is being offered or exposed for sale in violation of any of the provisions of this chapter until the law has been complied with and ~~such~~ the soil amendment is released in writing by the secretary, or ~~such~~ until the violation has been otherwise legally disposed of by written authority. The secretary shall release the soil amendment so withdrawn when the requirements of the provisions of this chapter have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

Section 117. That § 38-20-2 be amended to read as follows:

38-20-2. The secretary of agriculture ~~is authorized to~~ may make and enter into ~~such~~ cooperative agreements with the proper authorities of the United States Fish and Wildlife Service to accomplish the purposes of §§ 38-20-1 to 38-20-5, inclusive, and ~~he is hereby~~ authorized, in cooperation with the ~~said~~ Fish and Wildlife Service ~~to~~, may employ ~~such~~ assistance and purchase ~~such~~ supplies and equipment as ~~he may deem~~ the secretary deems necessary to carry out the purposes of ~~said sections~~ §§ 38-20-1 to 38-20-5, inclusive. Any supplies and equipment so purchased ~~shall be~~ are exempt from the provisions of the law relating to the purchasing and printing functions of the Bureau of Administration ~~of this state~~.

Section 118. That § 38-20-3 be amended to read as follows:

38-20-3. ~~There~~ The cooperative wildlife service fund is ~~hereby~~ created in the state treasury ~~as a special revenue fund known as the "cooperative wildlife service fund" which shall be.~~ The fund is under the control of the secretary of agriculture ~~of this state. The said secretary is hereby~~ authorized to. The secretary may accept on behalf of the State of South Dakota certain trust

1 funds ~~which in the approximate amount of six thousand dollars that~~ have accumulated in the
2 hands of a trustee, derived from the purchase and sale of supplies under a voluntary cooperative
3 arrangement by ~~such~~ the trustee and the various counties of this state; and neighboring states
4 ~~which trust fund is approximately six thousand dollars in amount. The said secretary is also~~
5 ~~authorized to.~~ The secretary may also accept and receive from ~~said~~ the trustee any supplies and
6 equipment ~~which he~~ that the trustee may have on hand.

7 Section 119. That § 38-20-4 be amended to read as follows:

8 38-20-4. Any supplies purchased by the secretary of agriculture in cooperation with the
9 Bureau of Sport Fisheries and Wildlife may be sold by ~~him~~ the secretary to the various legal
10 subdivisions of the state and to individuals ~~and the~~. The proceeds of such sales shall be
11 deposited in the cooperative wildlife service fund. ~~Said~~ The proceeds are hereby appropriated
12 and made available for expenditure in accordance with § 38-20-5.

13 Section 120. That § 38-20-32 be amended to read as follows:

14 38-20-32. The secretary of agriculture is ~~hereby authorized to~~ may accept and receive
15 donations and contributions of money from any source for the purpose of establishing a fund
16 to be matched with available federal funds and to be used for the purpose of grasshopper
17 eradication and controlling grasshopper infestation and for ~~the~~ that purpose may enter into ~~all~~
18 any necessary agreements agreement with the United States of America on behalf of the State
19 of South Dakota.

20 Section 121. That § 38-20A-6 be amended to read as follows:

21 38-20A-6. Notwithstanding any other provision of this chapter, registration is not required
22 ~~in the case of~~ for a pesticide shipped from one plant within this state to another plant within this
23 state operated by the same person if ~~such~~ the pesticide ~~be~~ is not sold or offered for sale in this
24 state.

Section 122. That § 38-20A-12 be amended to read as follows:

38-20A-12. If it does not appear to the secretary of agriculture that ~~the~~ a pesticide warrants the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of this chapter or ~~regulations adopted thereunder,~~ he rules promulgated pursuant to this chapter, the secretary shall notify the applicant of the manner in which the pesticide, labeling, or other material required to be submitted fails to comply with the provisions of this chapter to afford the applicant an opportunity to make the necessary corrections. If, upon receipt of the notice, the applicant does not make the required changes, the secretary may refuse to register the pesticide. The applicant may request a hearing under the provisions of chapter 1-26.

Section 123. That § 38-20A-13 be amended to read as follows:

38-20A-13. If the secretary of agriculture determines that a pesticide or its labeling does not comply with the provisions of this chapter or ~~regulations adopted~~ rules promulgated pursuant to the provisions of this chapter, ~~he~~ the secretary may cancel the registration of that pesticide, subject to the hearing provisions of chapter 1-26.

Section 124. That § 38-20A-31 be amended to read as follows:

38-20A-31. ~~The penalties~~ No penalty provided for violations of the provisions of §§ 38-20A-26 to 38-20A-29, inclusive, ~~do not apply~~ applies to a carrier while lawfully engaged in transporting a pesticide within this state, if the carrier, upon request, permits the secretary of agriculture or ~~his~~ the secretary's designated agent to copy all records showing transactions in and movement of the articles.

Section 125. That § 38-20A-35 be amended to read as follows:

38-20A-35. No article ~~shall be deemed~~ is in violation of this chapter ~~when~~ if the article is intended solely for export to a foreign country, and ~~when~~ if the article is prepared or packed

1 according to the specifications or directions of the purchaser. If not so exported all the
2 provisions of the chapter ~~shall~~ apply.

3 Section 126. That § 38-20A-36 be amended to read as follows:

4 38-20A-36. The secretary of agriculture may ~~establish~~ promulgate rules ~~promulgated~~
5 pursuant to chapter 1-26 providing for sampling, analysis, inspection, and labeling of pesticides
6 or devices; ~~requiring~~. The rules may require specific information on the label of pesticides as
7 to the chemical identity of any active ingredient or ingredients ~~thereof~~; ~~requiring of the~~
8 pesticides and registration of bulk pesticides and approval of site and conditions by which bulk
9 pesticides are handled; ~~stored, and produced and requiring~~. The rules may require on the label
10 an accurate statement of the quantity of any active ingredient in terms of weight per unit
11 measure of the commodity as sold, if ~~he~~ the secretary finds the label information necessary for
12 the protection of the user; and the environment; and for correct application of pesticides.

13 Section 127. That § 38-20A-39 be amended to read as follows:

14 38-20A-39. The secretary of agriculture may inspect and sample pesticides and devices kept
15 or offered for sale, sold, or distributed within this state at the time and place and to the extent
16 ~~he~~ the secretary finds necessary to confirm their compliance with the provisions of this chapter.
17 The secretary and ~~his~~ the secretary's duly authorized agents have all the rights of visitation,
18 inspection, sampling, and access to places, property, containers, and records as necessary to
19 enforce the provisions of this chapter. All samples collected shall be sealed and properly
20 identified in the presence of the dealer or person from whom taken and shall be promptly
21 forwarded to the director of laboratories for examination. The director of laboratories shall
22 examine all samples and ~~to report his~~ the results promptly to the secretary.

23 Section 128. That § 38-20A-41 be amended to read as follows:

24 38-20A-41. If the secretary of agriculture has reasonable cause to believe a pesticide or a

1 device is being distributed, sold, or offered for sale within this state in a manner inconsistent
2 with any of the provisions of this chapter, or of any of the ~~regulations adopted~~ rules promulgated
3 pursuant to the provisions of this chapter, ~~he~~ the secretary may issue and serve a written
4 "stop-sale" order upon the owner or custodian of the pesticide or device. If the owner or
5 custodian is not available for service of the order, the order may be attached to the pesticide or
6 device and the secretary shall notify the owner or custodian and the registrant. The pesticide or
7 device may not be sold, used, or removed until it has met the provisions of this chapter and the
8 pesticide or device has been released by written order under conditions specified by the secretary
9 or the violation has been otherwise rectified as provided in this chapter.

10 Section 129. That § 38-20A-49 be amended to read as follows:

11 38-20A-49. If it appears from an examination pursuant to the provisions of § 38-20A-39 that
12 a pesticide or device fails to comply with the provisions of this chapter and the secretary
13 contemplates instituting criminal proceedings against a person, ~~he~~ the secretary shall notify that
14 person. A person so notified shall be given an opportunity to present ~~his views~~ testimony, either
15 orally or in writing, with regard to the contemplated proceedings. If in the opinion of the
16 secretary it appears that the provisions of the chapter have been violated by the person, the
17 secretary shall refer the facts to the state's attorney for the county in which the violation occurred
18 with a copy of the results of the analysis or the examination of the pesticide or device.

19 Section 130. That § 38-20A-50 be amended to read as follows:

20 38-20A-50. Nothing in this chapter requires the secretary of agriculture to report minor
21 violations of the chapter for prosecution or for institution of other proceedings ~~minor violations~~
22 ~~of this chapter whenever he~~ if the secretary believes that the public interests will be best served
23 by a written warning.

24 Section 131. That § 38-20A-51 be amended to read as follows:

1 38-20A-51. ~~It shall be the duty of each~~ Each state's attorney to whom any violation of this
2 chapter is reported ~~to~~ shall cause appropriate proceedings to be instituted and prosecuted
3 without delay.

4 Section 132. That § 38-20A-52 be amended to read as follows:

5 38-20A-52. The secretary of agriculture shall, by publication in ~~such~~ a manner as ~~he~~ the
6 secretary may prescribe, give notice of all judgments entered in actions instituted under the
7 authority of this chapter.

8 Section 133. That § 38-21-20 be amended to read as follows:

9 38-21-20. If the secretary of agriculture finds ~~the~~ an applicant qualified to apply pesticides
10 in the classifications ~~he~~ for which the applicant has applied ~~for~~, after such examinations as the
11 secretary ~~shall require by regulation~~ requires in rules promulgated pursuant to chapter 1-26, and
12 if ~~the~~ an applicant applying for a license to engage in aerial application of pesticides has met all
13 the requirements of the Federal Aviation Agency, the Aeronautics Commission of this state, and
14 any other applicable federal or state laws, rules, or regulations to operate the equipment
15 described in the application, the secretary shall issue a licensed applicator's license limited to
16 the classifications for which ~~he~~ the applicant is qualified.

17 Section 134. That § 38-21-24 be amended to read as follows:

18 38-21-24. The secretary of agriculture may ~~establish~~ promulgate rules pursuant to chapter
19 1-26 to require private and commercial applicators to maintain such pesticide application
20 records as ~~he may deem~~ the secretary deems necessary.

21 Section 135. That § 38-21-33.3 be amended to read as follows:

22 38-21-33.3. Section 38-21-33.1 ~~shall~~ does not apply to ~~a~~ any licensed pesticide applicator
23 who sells pesticides only as an integral part of ~~his~~ the applicator's pesticide application service
24 ~~when such~~ if the pesticides are dispensed only through equipment used for such pesticide

1 application, ~~or. The provisions of § 38-21-33.1 do not apply to~~ any federal, state, county, or
2 municipal agency ~~which~~ that provides pesticides only for its own programs.

3 Section 136. That § 38-21-34 be amended to read as follows:

4 38-21-34. No person ~~shall be~~ is required to pay an additional license fee if ~~such~~ the person
5 desires to be licensed in two or more of the license classifications provided for by the secretary
6 of agriculture under the authority of § 38-21-33.

7 Section 137. That § 38-21-35 be amended to read as follows:

8 38-21-35. The licensing requirements of this chapter ~~shall~~ do not apply to any doctor of
9 veterinary medicine applying pesticides other than restricted use to animals during the normal
10 course of ~~his~~ veterinary practice if ~~he~~ the doctor of veterinary medicine is not regularly engaged
11 in the business of applying pesticides for hire amounting to a principal or regular occupation and
12 does not publicly ~~hold himself out~~ offer services as a pesticide applicator.

13 Section 138. That § 38-21-36 be amended to read as follows:

14 38-21-36. The licensing requirements of this chapter ~~shall~~ do not apply to research personnel
15 applying pesticides under laboratory conditions.

16 Section 139. That § 38-21-38 be amended to read as follows:

17 38-21-38. The licensing requirements of this chapter do not apply to any person applying
18 pesticides ~~for himself to the person's own property~~ or for ~~his~~ the person's farmer neighbors either
19 manually or with ground equipment if ~~he~~ the person operates farm property and maintains
20 pesticide application equipment primarily for ~~his~~ the person's own use, is not regularly engaged
21 in the business of applying pesticides for hire amounting to a principal or regular occupation
22 ~~and~~, does not publicly ~~hold himself out~~ offer services as a pesticide applicator, and operates ~~his~~
23 the pesticide application equipment only in the vicinity of ~~his~~ the person's own property and for
24 the accommodation of ~~his~~ the person's farmer neighbors. However, certification is required if

1 the person is using a pesticide other than restricted-use for purposes of producing any
2 agricultural commodity amounting to greater than one thousand dollars gross sales potential per
3 year or if restricted-use pesticides are used for the purposes of producing any agricultural
4 commodity.

5 Section 140. That § 38-21-45 be amended to read as follows:

6 38-21-45. Nothing in this chapter ~~shall be construed to relieve~~ relieves any person from
7 liability for any damage to the person or lands of another caused by the use of pesticides even
8 though such use conforms to the rules ~~and regulations~~ promulgated under ~~authority of~~ this
9 chapter.

10 Section 141. That § 38-21-47 be amended to read as follows:

11 38-21-47. The secretary of agriculture shall, upon receipt of a statement filed pursuant to
12 § 38-21-46, notify the licensee and the owner or lessee of the land or other person who may be
13 charged with the responsibility of the damages claimed, and furnish copies of such statements
14 as may be requested. The secretary shall inspect damages whenever possible and, if ~~he~~ the
15 secretary determines that the complaint has merit, ~~he~~ the secretary shall make such information
16 available to the person claiming damage and to the person who is alleged to have caused the
17 damage.

18 Section 142. That § 38-21-48 be amended to read as follows:

19 38-21-48. ~~When~~ If a statement is filed under the provisions of § 38-21-46, the claimant shall
20 permit the secretary of agriculture, the licensee, and ~~his~~ their representatives to observe during
21 reasonable hours the lands or nontarget organism alleged to have been damaged in order that
22 the damage may be determined.

23 Section 143. That § 38-21-49 be amended to read as follows:

24 38-21-49. The failure to file such a statement under the provisions of § 38-21-46 ~~shall not~~

1 ~~he is not~~ a violation of this chapter. However, if the person failing to file ~~such the~~ report is the
2 only one injured from ~~such the~~ use or application of a pesticide by others, the secretary of
3 agriculture may, ~~when if~~ in the public interest, refuse to hold a hearing for the denial,
4 suspension, or revocation of a license or certification issued under this chapter.

5 Section 144. That § 38-21-54 be amended to read as follows:

6 38-21-54. The secretary of agriculture may apply to any court of competent jurisdiction for
7 a search warrant authorizing access to any land or premises to which ~~he may be~~ the secretary
8 is denied access pursuant to the provisions of § 38-21-53.

9 Section 145. That § 38-22-16 be amended to read as follows:

10 38-22-16. If any owner of weed or pest infested land fails to rid the land of ~~such the~~
11 infestation and the secretary of agriculture finds that ~~such the~~ infestation is a menace to
12 neighboring lands or to the state or its people ~~he the secretary~~ may declare ~~such the~~ infested land
13 to constitute a public nuisance and may enter ~~such the~~ infested areas and perform ~~such necessary~~
14 protective operations ~~as may be necessary~~.

15 Section 146. That § 38-22-19 be amended to read as follows:

16 38-22-19. In the performance of their duties; pursuant to this chapter, the South Dakota
17 Weed and Pest Control Commission, the secretary of agriculture, ~~his~~ and the secretary's
18 assistants, inspectors, agents, and employees are vested with police powers.

19 Section 147. That § 38-22-20 be amended to read as follows:

20 38-22-20. The entrance upon property by the secretary of agriculture, an agent or employee
21 of the secretary of agriculture, the county, or any supervisor, ~~upon property~~, in performing ~~his~~
22 duties; pursuant to this chapter, does not constitute trespass, nor may damage be assessed against
23 the state, the secretary, ~~his~~ the secretary's agents or employees, the county, or any supervisor
24 doing weed or pest control work.

Section 148. That § 38-22-23.2 be amended to read as follows:

38-22-23.2. The board of county commissioners shall appoint or provide for the election of a county weed and pest board which shall consist of five or seven members. However, one member shall be a county commissioner appointed by the board of county commissioners. Each member shall serve for a term of three years or until ~~his~~ a successor is appointed and qualified. The board of county commissioners may stagger the initial appointments so that the terms of all of the board members do not expire at the same time. Any qualified elector, residing in the board member area ~~he~~ the elector is appointed to represent, is eligible to be a member.

Section 149. That § 38-22-32 be amended to read as follows:

38-22-32. The Department of Agriculture may assist, advise, and coordinate the county weed and pest boards. The secretary of agriculture may enter into cooperative agreements with any state or federal agency to accomplish the purposes of this chapter, ~~and he~~. The secretary may employ such assistance and purchase such supplies and equipment as may be necessary.

Section 150. That § 38-23-1 be amended to read as follows:

38-23-1. The Department of Agriculture shall collect, preserve, publish, and disseminate information pertaining to horticulture and ~~to~~ shall promote tree planting, fruit growing, and floriculture in the state.

Section 151. That § 38-24A-2 be amended to read as follows:

38-24A-2. The secretary of agriculture ~~has the responsibility for administration of~~ shall administer the provisions of this chapter. The secretary ~~is authorized to~~ may assign functions provided for in this chapter to any unit of ~~his department and to~~ the Department of Agriculture ~~and may~~ and may delegate any authority provided for in this chapter to a designated agent to be exercised under ~~his~~ the secretary's general supervision.

Section 152. That § 38-24A-4 be amended to read as follows:

1 38-24A-4. The secretary of agriculture ~~is authorized to~~ may cooperate with any agency ~~he~~
2 the secretary deems necessary to suppress, control, prevent, or retard the spread of any pest
3 ~~including the right to~~. The secretary may expend state funds on federal, state, and private lands
4 for such purposes.

5 Section 153. That § 38-24A-5 be amended to read as follows:

6 38-24A-5. The secretary of agriculture ~~is authorized to~~ may cooperate with agencies of
7 adjacent states in ~~such~~ operations and measures ~~as he~~ the secretary deems necessary to locate,
8 suppress, or control; or to prevent or retard the spread of any pest; ~~provided, that~~. However, the
9 use of funds for operations in adjacent states ~~must be~~ is prohibited unless approved in advance
10 by the Governor ~~or his designee~~.

11 Section 154. That § 38-24A-6 be amended to read as follows:

12 38-24A-6. The secretary of agriculture ~~is authorized to~~ may quarantine this state or any
13 portion thereof ~~when he shall determine that such action~~ of this state if the secretary determines
14 that quarantine is necessary to prevent or retard the spread of a pest within or from this state ~~and~~
15 ~~to~~. The secretary may place an embargo on articles from any other state or portion thereof
16 ~~whenever he~~ of another state if the secretary determines that a pest exists ~~therein in the other~~
17 state and that such action is necessary to prevent or retard its spread into this state.

18 Section 155. That § 38-24A-7 be amended to read as follows:

19 38-24A-7. The secretary of agriculture may limit the application of the quarantine to the
20 infested portion of the quarantined area and appropriate environs, to be known as the regulated
21 area, and may, without further hearing, extend the regulated area to include additional portions
22 of the quarantined area upon publication of a notice to that effect in such newspapers in the
23 quarantined area as ~~he~~ the secretary may select or by direct written notice to those concerned.

24 Section 156. That § 38-24A-9.1 be amended to read as follows:

1 38-24A-9.1. Other provisions of this chapter and the provisions of chapter 1-26
2 notwithstanding, the secretary may adopt emergency measures to quarantine or otherwise
3 control plant infestations on an emergency basis. ~~Such~~ The measures ~~shall be~~ are subject to a
4 public hearing, which shall be held within twenty-one days of implementation of ~~such~~ the
5 measures, but no official decision need be undertaken at the conclusion of ~~such~~ the hearing.
6 Notice of ~~such~~ the hearing shall be published at least once in at least one official newspaper in
7 the infested area. ~~Such~~ The emergency measures ~~shall be~~ are valid for a period of ninety days
8 from implementation of the measures. After ninety days, ~~such~~ the measures ~~shall be~~ are subject
9 to the rule-making procedures of chapter 1-26.

10 Section 157. That § 38-24A-10 be amended to read as follows:

11 38-24A-10. Following establishment of a quarantine, no person ~~shall~~ may move any
12 regulated article described in the quarantine or move the pest against which the quarantine is
13 established, within, from, into, or through this state contrary to rules promulgated by the
14 secretary of agriculture.

15 Section 158. That § 38-24A-12 be amended to read as follows:

16 38-24A-12. ~~Whenever~~ If the secretary of agriculture or ~~his~~ the secretary's designated agent
17 finds any article that is infested or reasonably believed to be infested or finds that a host or pest
18 exists on any property or is in transit in this state, ~~he~~ the secretary may, upon giving notice to
19 the owner or ~~his~~ the owner's representative in possession thereof, seize, quarantine, treat, or
20 otherwise dispose of ~~such~~ the pest, host, or article in such manner as the secretary or ~~his~~ the
21 secretary's designated agent considers necessary to suppress, control, prevent, or retard the
22 spread of the pest. The secretary or ~~his~~ the secretary's designated agent may order ~~such~~ the
23 owner or agent to so treat or otherwise dispose of the pest, host, or article before removing it
24 from the quarantined area. A notice or order is considered given if it is given by personal service

1 to the owner or ~~his~~ the owner's representative, or a copy is sent to the owner by certified mail
2 addressed to the last known address of the owner at least five days before the effective date of
3 the notice or order.

4 Section 159. That § 38-24A-14 be amended to read as follows:

5 38-24A-14. To effectuate the purposes of this chapter, the secretary of agriculture may, with
6 a search warrant or the consent of the owner, make reasonable inspection of any property in this
7 state. The secretary may, without a search warrant, with or without the assistance of any law
8 enforcement agency, stop and inspect, in a reasonable manner, any means of conveyance
9 moving within this state upon probable cause to believe it contains or carries any pest, host, or
10 other article subject to the provisions of this chapter, and may make any other reasonable
11 inspection of any premises or means of conveyance for which no search warrant is required. The
12 secretary may, if ~~he~~ the secretary believes that a pest exists, investigate the suspected premises
13 after giving written notice. Such notice is considered given if it is given to the owner or person
14 in charge of the premises by personal service at least one day before entry, or if it is mailed by
15 certified mail addressed to the last known address of the owner at least five days before entry.

16 Section 160. That § 38-24A-15 be amended to read as follows:

17 38-24A-15. The appropriate circuit and magistrate courts in this state ~~shall have authority~~
18 ~~to~~ may issue search warrants for such inspections upon a showing by the secretary of agriculture
19 that there is probable cause to believe that there exists in or on the property to be inspected a
20 pest, host, or other article subject to the provisions of this chapter.

21 Section 161. That § 38-24A-16 be amended to read as follows:

22 38-24A-16. The owner of any property destroyed or ordered to be treated or otherwise
23 disposed of under this chapter may, in an action against this state in the appropriate court for the
24 county in which ~~he~~ the owner resides or the property was located, recover just compensation for

1 any property so destroyed and the reasonable costs of disposal of any property ordered
2 destroyed, if ~~he~~ the owner establishes that the property was not a pest, host, or infested article.

3 Section 162. That § 38-24B-6 be amended to read as follows:

4 38-24B-6. Any nurseryman desiring to sell or ship nursery stock in the state shall ~~make~~
5 ~~application~~ apply before the first day of March to the Department of Agriculture for inspection
6 of ~~his~~ the nurseryman's nursery stock, and anyone failing to comply with this section is liable
7 for extra charges to cover travel expenses for the department.

8 Section 163. That § 38-24B-11 be amended to read as follows:

9 38-24B-11. No certificate of inspection may be issued to an applicant who purchases ~~his~~
10 nursery stock from an uncertified nursery in this state or from a nonresident nursery or nursery
11 stock dealer whose stock has not been inspected and certified by the regulatory official of the
12 state of origin.

13 Section 164. That § 38-24B-19 be amended to read as follows:

14 38-24B-19. If the Department of Agriculture finds on examination any nursery, nursery
15 stock, orchard, small-fruit plantation, park, cemetery, or any private or public premises infested
16 with pests, ~~he~~ the department shall notify in writing the owner or person having charge of ~~such~~
17 the premises, to that effect. The department may prohibit and prevent the removal, shipment,
18 or transportation of plant material and any other material from any private or public property for
19 such periods and under such conditions as necessary in order to prevent the further spread of the
20 infestation or infection. During the existence of such an order no person may remove or ship any
21 such material, except by special permission or direction of the secretary. The owner or person
22 having charge of the premises shall within reasonable time after ~~such~~ the notice treat them as
23 the secretary of agriculture directs or cause the removal and destruction of ~~such~~ the plant
24 material, if incapable of successful treatment. The secretary may also order treatment of any

1 fields, premises, building, packing materials, or vehicles used in transporting infected material.
2 Any notice or order issued by the secretary shall be delivered by personal service to the owner
3 or person having charge of the premises or by certified mail to the last known address of the
4 owner. A violation of this section is a Class 1 misdemeanor.

5 Section 165. That § 38-24B-22 be amended to read as follows:

6 38-24B-22. Any person selling nursery stock, decorative plants, annual plants, sod, or
7 related plant products in this state shall, if requested, furnish the Department of Agriculture with
8 copies of ~~his~~ order forms, contracts, invoices, and agreements ~~which that~~ would verify the point
9 of origin of ~~such~~ the nursery stock, decorative plants, annual plants, sod, or related plant
10 products. A violation of this section is a Class 2 misdemeanor.

11 Section 166. That § 38-24B-23 be amended to read as follows:

12 38-24B-23. Any person offering for sale in this state nursery stock, decorative plant, annual
13 plant, sod, or related plant product that is known to be infested or infected with pests shall
14 furnish the Department of Agriculture within thirty days of ~~such~~ sale a list of all persons,
15 together with their post office addresses as far as known to ~~him~~ the seller, to whom ~~he~~ the seller
16 has sold or delivered such nursery stock, decorative plants, annual plants, sod, or related plant
17 products. A violation of this section is a Class 2 misdemeanor.

18 Section 167. That § 38-24B-29 be amended to read as follows:

19 38-24B-29. If a nurseryman violates the provisions of this chapter, ~~he may have his~~ the
20 nurseryman's certificate of inspection may be cancelled or revoked pursuant to chapter 1-26. In
21 addition, any person who violates the provisions of this chapter is liable in a civil action for all
22 damage that is occasioned or caused by ~~a violation of this chapter~~ the violation.

23 Section 168. That § 38-27-4 be amended to read as follows:

24 38-27-4. The term of the members ~~shall be~~ is for a period of four years, ~~provided except~~ that

1 the initial appointments shall be for staggered terms. Not all members ~~shall~~ may be of the same
2 political party. If a member ceases to be a participating grower the secretary of agriculture shall
3 declare the member's office vacant and the secretary shall appoint a successor for the balance
4 of the term of the office vacated.

5 Section 169. That § 38-27-9 be amended to read as follows:

6 38-27-9. This chapter ~~shall not be construed to~~ does not abrogate or limit in any way the
7 rights, powers, duties, and functions of the Department of Agriculture or any other agency of
8 the state, but ~~shall be~~ is supplementary ~~thereto to~~ and in aid and cooperation ~~therewith~~ with such
9 rights, powers, duties, and functions.

10 Section 170. That § 38-27-13 be amended to read as follows:

11 38-27-13. Any first purchaser of sunflowers, safflowers, canola, or flax shall file an
12 application or affidavit with the oilseeds council on forms prescribed and furnished by the
13 council ~~which~~. The application shall contain the name under which the first purchaser is
14 transacting business within the state, ~~his~~ the first purchaser's place of business, and the location
15 of loading places of the first purchaser.

16 Section 171. That § 38-27-14 be amended to read as follows:

17 38-27-14. Any first purchaser shall keep ~~as a part of his permanent records~~ a permanent
18 record of all purchases of raw sunflowers, safflowers, canola, or flax, which may be examined
19 by the oilseeds council at any reasonable time. The first purchaser shall report to the council
20 stating the quantity of sunflowers, safflowers, canola, or flax received by ~~him~~ the first purchaser.
21 The report and remittance of the assessment shall be made at the times and in the manner
22 prescribed by the council pursuant to rules promulgated pursuant to chapter 1-26.

23 Section 172. That § 38-29-2 be amended to read as follows:

24 38-29-2. There is hereby established a the South Dakota Soybean Research and Promotion

1 Council. The council ~~shall be~~ is composed of at least five, but no more than nine members, who
2 ~~shall be~~ are participating growers. The initial members shall be appointed by the secretary of
3 agriculture. Any additional members authorized pursuant to this section shall be appointed by
4 the secretary of agriculture. The terms of members shall be three years; the initial appointments
5 shall be for staggered terms. ~~However, the~~ The secretary ~~shall be~~ is an ex officio, nonvoting
6 member of the council.

7 Section 173. That § 38-29-11 be amended to read as follows:

8 38-29-11. Any first purchaser shall keep ~~as a part of his permanent records~~ a permanent
9 record of all purchases of raw soybeans, which may be examined by the soybean research and
10 promotion council at any reasonable time. Every first purchaser shall report to the council
11 ~~stating~~ the quantity of soybeans received by ~~him~~ the first purchaser. The report and remittance
12 of the assessment shall be made at the times and in the manner prescribed by the council
13 pursuant to administrative rules promulgated pursuant to chapter 1-26.

14 Section 174. That § 39-1-1 be amended to read as follows:

15 39-1-1. The Department of Agriculture through its secretary, and ~~such~~ through any other
16 agents and employees as ~~it~~ the secretary may assign ~~thereto shall be~~ is in general charge of the
17 administration and enforcement of chapters 39-1; 39-6 to 39-9, inclusive; 39-11; 39-14; 39-
18 15; and 39-18, except in cases where a different intention plainly appears. ~~It shall have and~~ The
19 department may exercise all of its general powers and duties of visitation, inspection,
20 examination, access to property and places ~~therefor~~, prosecution, rule ~~and regulation~~ making,
21 and requiring cooperation and aid of other agencies of government, for the purpose of
22 administering and enforcing the provisions of this title, as ~~the same~~ such powers and duties are
23 prescribed in Title 38 or as specifically prescribed in this title and as otherwise prescribed by
24 law.

Section 175. That § 39-1-5 be amended to read as follows:

39-1-5. The secretary of agriculture, or the secretary of public safety ~~when~~ if performing the functions described in § 39-1-1.1, may, ~~when in his~~ if in the secretary's judgment such action will promote honesty and fair dealing in the interest of consumers, ~~adopt rules~~ promulgate rules pursuant to chapter 1-26 establishing for any food, under its common or usual name so far as practicable, a reasonable standard of identity and purity. If a standard for a food has been established by the administrator of the Federal Food, Drug, and Cosmetic Act of 1938, as amended to January 1, 2006, the secretary of agriculture or the secretary of public safety shall adopt that standard for this state. The standards shall become effective in conformity with chapter 1-26. An article of food ~~which~~ that does not conform to the ~~such~~ standards is either adulterated or misbranded as the case may be.

Section 176. That § 39-1-7 be amended to read as follows:

39-1-7. ~~All contracts~~ Any contract for the sale of any product in violation of the provisions of this title ~~shall be~~ is void; ~~no~~ No action ~~shall~~ may be maintained in any court for the purchase price or value of any product the sale of which is ~~thereby~~ prohibited; ~~nor shall any person be~~ because of a violation of this title. No person is liable for the price or value of any product furnished in violation of any of ~~its provisions~~ the provisions of this title.

Section 177. That § 39-1-11 be amended to read as follows:

39-1-11. All proprietors, clerks, bookkeepers, or other persons in any way dealing in any product governed by this title and all express agents and all employees of railroads or other common carriers shall render to the secretary of agriculture, the secretary of public safety, and their authorized assistants all aid within their power in discovering any such ~~products which~~ may be product suspected of being in violation of this title, and all records appertaining ~~thereto~~ to the product. Any refusal or neglect ~~on the part of~~ by such proprietors, clerks, bookkeepers,

1 or other persons in any way dealing in any such product, or any express agent or employee of
2 a railroad or other common carrier, to render such friendly aid ~~shall be a violation of this title~~
3 ~~and shall be~~ is punishable as provided in § 39-1-8.

4 Section 178. That § 39-1-15 be amended to read as follows:

5 39-1-15. The secretary of agriculture, the secretary of public safety, and their agents and
6 inspectors, with or without the assistance of the officers specified in § 39-1-13, ~~have power and~~
7 ~~authority to~~ may seize or quarantine by tagging or otherwise suitably marking any food or drug
8 ~~which that~~ is, or ~~which~~ is suspected of being, contraband material as defined in § 39-1-14, ~~and~~
9 ~~for.~~ For this purpose ~~they~~ the secretary of agriculture, the secretary of public safety, and their
10 agents and inspectors ~~shall be~~ are vested with police powers. ~~Such~~ The tag or marking ~~shall be~~
11 constitutes notice to all persons not to remove or otherwise molest marked or tagged material
12 until given permission by the secretary of agriculture, the secretary of public safety, their agents
13 or inspectors, or a court. Any person who removes or otherwise molests any article of food or
14 drug tagged or marked as provided by this section without the permission or consent of the
15 secretary of agriculture, the secretary of public safety, their agents or inspectors, or a court,
16 commits a petty offense.

17 Section 179. That § 39-5-5 be amended to read as follows:

18 39-5-5. Any person who knowingly sells or offers for sale any meat ~~which that~~ is the product
19 of any foreign country or imported from ~~without~~ outside the boundaries of the United States,
20 or any meat product containing such imported meat, without indicating this fact by display of
21 a conspicuous sign in ~~his~~ the person's place of business and by labels or brands on each quarter,
22 half or whole carcass of such meat, or on each can, case, or package containing any of the
23 above-mentioned product, naming the country of its origin and the date of exportation is guilty
24 of a Class 2 misdemeanor.

Section 180. That § 39-5-7 be amended to read as follows:

39-5-7. The secretary of the Animal Industry Board ~~is hereby authorized to~~ may enforce the provisions of this chapter through such meat inspectors and other employees of the Animal Industry Board of this state as ~~he may designate or appoint consistently~~ the secretary designates or appoints in accordance with the provisions of this chapter.

Section 181. That § 39-5-8 be amended to read as follows:

39-5-8. ~~In addition to the regulations specifically authorized by this chapter, the~~ The secretary of the Animal Industry Board may promulgate ~~such rules and regulations, and~~ rules pursuant to chapter 1-26 to specify methods and requirements governing inspection of meat and meat products, including the use of federal methods and rules for such inspections. The rules may require such reports from persons subject to this chapter ~~as he deems~~ appropriate to carry out the purposes and provisions of this chapter.

Rules ~~and regulations~~ shall be promulgated under this chapter in conformity with the rules and regulations under the Federal Wholesome Meat Act as ~~now in effect and with subsequent amendments thereof~~ amended to January 1, 2006, unless they are considered by the secretary ~~as to be~~ inconsistent with the objectives of this chapter.

Section 182. That § 39-5-9 be amended to read as follows:

39-5-9. For purposes of the administration of this chapter, the secretary of the Animal Industry Board ~~shall have power to~~ may administer oaths and affirmations and take depositions and ~~to~~ require by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under investigation or the subject of any hearing. Obedience to such subpoenas may be compelled by the circuit court of South Dakota. No natural person ~~shall~~ may be prosecuted or subjected to any penalty or forfeiture for or on account of any matter ~~concerning which he may be~~ on which the person is compelled to testify or produce

1 evidence in obedience to a subpoena of the secretary, after claiming ~~his~~ the person's privilege
2 against self-incrimination, except for perjury committed in so testifying.

3 Section 183. That § 39-5-10 be amended to read as follows:

4 39-5-10. The secretary of the Animal Industry Board may cooperate with the federal
5 government in carrying out the provisions of this chapter or the Federal Wholesome Meat Act,
6 as amended to January 1, 2006, including acceptance of federal financial, training, and other
7 assistance, and for purposes of the more effective administration of such acts may cooperate
8 with any other federal, state, or local agency having responsibilities with respect to matters
9 relating to human or animal health.

10 Section 184. That § 39-5-11 be amended to read as follows:

11 39-5-11. ~~The following meat~~ Meat and meat products to be used for human consumption
12 are exempt from the inspection and preparation provisions of this chapter in the following
13 circumstances:

14 (1) ~~Any livestock producer with respect to slaughter on his own farm of livestock raised~~
15 ~~by him on his own farm and with respect to the preparation by him~~ Meat and meat
16 products are exempt if they are produced from livestock raised and slaughtered by a
17 livestock producer on the producer's own farm and if the meat and meat products are
18 prepared by the producer on such farm of the farm from the carcasses, parts ~~thereof~~
19 of the carcasses, and meat food products, of ~~such the~~ the livestock, ~~and with respect to~~
20 ~~such articles. This exemption applies only~~ if the livestock producer does not
21 otherwise engage in the business of slaughtering livestock or preparing livestock
22 carcasses, parts ~~thereof~~ of the carcasses, or meat food products ~~and~~; does not engage
23 in the business of buying or selling livestock other than those raised on ~~his~~ the
24 livestock producer's own farm, or; does not engage in the business of buying or

1 ~~selling~~ livestock carcasses, parts ~~thereof~~ of the carcasses, or meat food products,
2 other than those produced from ~~such~~ livestock raised on the producer's own farm; and
3 does not slaughter or permit any other person to slaughter on ~~his~~ the producer's farm
4 any livestock not owned by ~~him~~ the producer, except under exemption as provided
5 for in subdivision (2);

6 (2) ~~Any Meat and meat products prepared by or resulting from slaughter by any person~~
7 engaged in custom slaughtering of livestock and preparation of the carcasses, parts
8 ~~thereof of the carcasses~~, and meat food products, ~~only with respect to~~ are exempt only
9 if the slaughter of livestock delivered by the owner ~~thereof~~ of the livestock for
10 custom slaughter, and the ~~preparation of the carcasses, parts thereof of the carcasses,~~
11 and meat food products ~~of such~~ prepared from the livestock ~~for~~ are limited to use by
12 ~~such owner in his~~ the livestock owner in the owner's own household or by members
13 of ~~his~~ the owner's household and nonpaying guests;

14 (3) ~~Any Meat and meat products prepared by or resulting from slaughter by any person~~
15 engaged in slaughtering livestock or preparing livestock carcasses, parts ~~thereof~~ of
16 the carcasses, or meat food products; are exempt if the meat and meat products are
17 solely for intrastate commerce, and the articles so prepared by such person, whenever
18 and if the secretary determines that application of such specific inspection and
19 preparation provisions would be impracticable and that an exemption to this chapter
20 will otherwise aid in the effective administration of this chapter, or that the
21 exemption is necessary to avoid conflict with requirements under recognized
22 religious dietary laws;

23 (4) The licensing, inspection, adulteration, and misbranding provisions of this chapter
24 do not apply to the slaughter of livestock or the preparation of livestock carcasses,

1 parts ~~thereof~~ of the carcasses, or meat food products by any person for use in ~~his~~ the
2 person's own household or by members of ~~his~~ the person's household and nonpaying
3 guests.

4 Section 185. That § 39-5-12 be amended to read as follows:

5 39-5-12. The secretary of the Animal Industry Board may withdraw or deny any exemption
6 under § 39-5-11 with respect to any person ~~whenever he~~ if the secretary finds that such action
7 will aid in effectuating the purposes of this chapter.

8 Section 186. That § 39-5-13 be amended to read as follows:

9 39-5-13. The provisions of this chapter ~~shall~~ do not apply to any act or transaction subject
10 to exclusive regulation under the Federal Wholesome Meat Act, as amended to January 1, 2006.

11 The provisions ~~shall~~ do not apply to carcasses, parts ~~thereof~~ of the carcasses, or meat food
12 products of livestock to the extent that they are subject to regulation under the Federal
13 Wholesome Meat Act, as amended to January 1, 2006.

14 Section 187. That § 39-5-14 be amended to read as follows:

15 39-5-14. For purposes of this chapter, the term "~~adulterated~~" ~~shall apply, adulterated, applies~~
16 to any carcass, part ~~thereof~~ of the carcass, or meat food product under one or more of the
17 following circumstances:

- 18 (1) If it bears or contains any poisonous or deleterious substance ~~which~~ that may render
19 it injurious to health; but ~~in case~~ if the substance is not an added substance ~~such~~ the
20 article ~~shall not be~~ is not considered adulterated under this subdivision if the quantity
21 of ~~such~~ the substance in or on ~~such~~ the article does not ordinarily render it injurious
22 to health; or
- 23 (2) If it bears or contains ~~(by reason of administration of any substance to the live~~
24 animal or otherwise)~~),~~ any added poisonous or added deleterious substance ~~which~~ that

1 is prohibited in the quantity present with respect to such an article under the Federal
2 Wholesome Meat Act, as amended to January 1, 2006, and ~~which~~ that may, in the
3 judgment of the secretary of the Animal Industry Board make the article unfit for
4 human food; or

5 (3) If it consists in whole or in part of any filthy, putrid, or decomposed substance or is
6 for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for
7 human food; or

8 (4) If it has been prepared, packed, or held under unsanitary conditions whereby it may
9 have become contaminated with filth, or whereby it may have been rendered
10 injurious to health; or

11 (5) If it is, in whole or in part, the product of an animal ~~which~~ that has died otherwise
12 than by slaughter; or

13 (6) If its container is composed, in whole or in part, of any poisonous or deleterious
14 substance ~~which~~ that may render the contents injurious to health; or

15 (7) If it has been intentionally subjected to radiation, unless such use of radiation was
16 permissible under the Federal Wholesome Meat Act, as amended to January 1, 2006,
17 and approved by the secretary; or

18 (8) If any valuable constituent has been in whole or in part omitted or abstracted
19 ~~therefrom~~ the carcass, part of the carcass, or meat food product; or if any substance
20 has been substituted, wholly or in part ~~therefor~~ for it; or if damage or inferiority has
21 been concealed in any manner; or if any substance has been added ~~thereto~~ to it or
22 mixed or packed ~~therewith~~ with it so as to increase its bulk or weight, or reduce its
23 quality or strength, or make it appear better or of greater value than it is; or

24 (9) If it is margarine containing animal fat and any of the raw material used therein

1 consisted in whole or in part of any filthy, putrid, or decomposed substance.

2 Section 188. That § 39-5-19 be amended to read as follows:

3 39-5-19. The cost of inspection rendered under this chapter shall be borne by this state
4 except as otherwise provided in § 39-5-10 and except that the cost of overtime, night, and
5 holiday work performed in establishments subject to the provisions of this chapter at such rates
6 as the secretary of the Animal Industry Board ~~may determine~~ determines shall be borne by ~~such~~
7 the establishments. Sums received by the secretary in reimbursement of sums paid out by ~~him~~
8 the secretary for such premium pay work ~~shall be available without fiscal year limitations~~ are
9 continuously appropriated to carry out the purposes of this chapter.

10 Section 189. That § 39-5-20 be amended to read as follows:

11 39-5-20. The secretary of the Animal Industry Board shall also cause, at any time, ~~such~~ the
12 quarantine, segregation, and reinspection of livestock, livestock carcasses and parts ~~thereof~~ of
13 the carcasses, and meat food products in any such establishments as ~~he~~ the secretary deems
14 necessary to effectuate the purposes of this chapter.

15 Section 190. That § 39-5-21 be amended to read as follows:

16 39-5-21. All livestock carcasses, parts ~~thereof~~ of the carcasses, and meat food products
17 found by an inspector to be adulterated in any official establishment shall be condemned and
18 shall, if no appeal ~~be~~ is taken from ~~such~~ the determination of condemnation, be destroyed for
19 human food purposes under the supervision of an inspector and in a manner prescribed ~~by~~
20 ~~regulations of~~ in rules promulgated pursuant to chapter 1-26 by the secretary of the Animal
21 Industry Board: ~~Provided, that,~~ However, articles ~~which~~ that may, by reprocessing, be made not
22 adulterated, need not be ~~so~~ condemned and destroyed if ~~so~~ the articles are reprocessed under the
23 supervision of an inspector and thereafter found to be not adulterated.

24 Section 191. That § 39-5-24 be amended to read as follows:

1 39-5-24. Each establishment at which livestock are slaughtered or livestock carcasses ~~or,~~
2 parts ~~thereof~~ of the carcasses, or meat food products are prepared solely for intrastate commerce
3 shall ~~have such~~ maintain premises, facilities, and equipment, and be operated in accordance with
4 ~~such~~ sanitary practices, as ~~are~~ required by ~~regulations prescribed~~ rules promulgated pursuant to
5 chapter 1-26 by the secretary of the Animal Industry Board for the purpose of preventing the
6 entry into and movement in ~~such~~ intrastate commerce of adulterated carcasses, adulterated parts
7 ~~thereof of the carcasses~~, and adulterated meat food products, ~~which are adulterated~~. No livestock
8 carcasses, parts ~~thereof of the carcasses~~, or meat food products ~~shall~~ may be admitted into ~~such~~
9 the establishment unless they have been prepared ~~only~~ under inspection pursuant to this chapter
10 or the Federal Wholesome Meat Act, as amended to January 1, 2006, or imported in compliance
11 with the ~~latter act~~ Federal Wholesome Meat Act, as amended to January 1, 2006.

12 Section 192. That § 39-5-26 be amended to read as follows:

13 39-5-26. For purposes of this chapter, the term "~~misbranded~~" ~~shall apply~~, misbranded,
14 applies to any carcass, part ~~thereof of the carcass~~, or meat food product under one or more of
15 the following circumstances:

- 16 (1) If its labeling is false or misleading in any particular; or
- 17 (2) If it is offered for sale under the name of another food; or
- 18 (3) If it is an imitation of another food, unless its label bears, in type of uniform size and
19 prominence, the ~~word "imitation"~~ term, imitation, and immediately thereafter, the
20 name of the food imitated; or
- 21 (4) If its container is so made, formed, or filled as to be misleading; or
- 22 (5) If in a package or other container unless it bears a label showing:
 - 23 (a) The name and place of business of the manufacturer, packer, or distributor;
 - 24 and

1 (b) An accurate statement of the quantity of the contents in terms of weight,
2 measure, or numerical count: ~~Provided, that under clause (b) of this~~
3 ~~subdivision.~~ However, reasonable variations may be permitted under this
4 subsection, and exemptions as to small packages may be established, by
5 ~~regulations prescribed~~ rules promulgated pursuant to chapter 1-26 by the
6 secretary of the Animal Industry Board; or

7 (6) If any word, statement, or other information required by or under authority of this
8 chapter to appear on the label or other labeling is not prominently placed ~~thereon~~ on
9 the label or other labeling with such conspicuousness (as compared with other words,
10 statements, designs, or devices, in the labeling) and in such terms as to render it
11 likely to be read and understood by the ordinary individual under customary
12 conditions of purchase and use; or

13 (7) If it purports to be or is represented as a food for which a definition and standard of
14 identity or composition has been prescribed by ~~regulations of~~ rules promulgated by
15 the secretary under § 39-5-28 unless:

16 (a) It conforms to ~~such~~ the definition and standard; and

17 (b) Its label bears the name of the food specified in the definition and standard
18 and, insofar as may be required by such ~~regulations~~ rules, the common names
19 of optional ingredients (other than spices, flavoring, and coloring) present in
20 ~~such~~ the food; or

21 (8) If it purports to be or is represented as a food for which a standard or standards of fill
22 of container have been prescribed by ~~regulations of~~ in rules promulgated by the
23 secretary under § 39-5-28, and it falls below the applicable standard of fill of
24 container ~~applicable thereto~~, unless its label bears, in such manner and form as ~~such~~

1 ~~regulations~~ the rules specify, a statement that it falls below such standard; or

2 (9) If it is not subject to the provisions of subdivision (7), unless its label bears:

3 (a) The common or usual name of the food, if any ~~there be~~; and

4 (b) ~~In case~~ If it is fabricated from two or more ingredients, the common or usual
5 name of each such ingredient; except that spices, flavorings, and colorings
6 may, ~~when~~ if authorized by the secretary, be designated as spices, flavorings,
7 and colorings without naming each; ~~Provided, that, However,~~ to the extent that
8 compliance with the requirements of ~~clause (b) of this subdivision (9)~~ this
9 subsection is impracticable, or results in deception or unfair competition,
10 exemptions shall be established by ~~regulations~~ rules promulgated by the
11 secretary pursuant to chapter 1-26; or

12 (10) If it purports to be or is represented for special dietary uses, unless its label bears
13 such information concerning its vitamin, mineral, and other dietary properties as the
14 secretary ~~determines to be, and by regulations prescribed as,~~ requires in rules
15 promulgated pursuant to chapter 1-26 as necessary in order fully to fully inform
16 purchasers ~~as to~~ of its value for such uses; or

17 (11) If it bears or contains any artificial flavoring, artificial coloring, or chemical
18 preservative, unless it bears labeling stating that fact; ~~Provided, that, However,~~ to the
19 extent that compliance with the requirements of this subdivision ~~(11)~~ is
20 impracticable, exemptions shall be established by ~~regulations~~ rules promulgated by
21 the secretary pursuant to chapter 1-26; or

22 (12) If it fails to bear, directly thereon or on its containers, as the secretary may ~~by~~
23 ~~regulations~~ prescribe by rules promulgated pursuant to chapter 1-26, the inspection
24 legend and such other information as the secretary may require in ~~such regulations~~

1 the rules to effectuate the purposes of this chapter.

2 Section 193. That § 39-5-28 be amended to read as follows:

3 39-5-28. The secretary of the Animal Industry Board, ~~whenever he~~ if the secretary
4 determines such action is necessary for the protection of the public, may prescribe:

5 (1) The styles and sizes of type to be used in marking and labeling any articles or animals
6 subject to this chapter, and

7 (2) Definitions and standards of identity or composition for articles subject to this
8 chapter, and fill of container for such articles.

9 Section 194. That § 39-5-30 be amended to read as follows:

10 39-5-30. If the secretary of the Animal Industry Board has reason to believe that any
11 marking or labeling or the size or form of any container in use or proposed for use with respect
12 to any article subject to this chapter is false or misleading in any particular, ~~he~~ the secretary may
13 direct that such use be withheld unless the marking, labeling, or container is modified in such
14 manner as ~~he may prescribe~~ the secretary prescribes so that it ~~will not be~~ is not false or
15 misleading. If the person using or proposing to use the marking, labeling, or container does not
16 accept the determination of the secretary, ~~such~~ the person may request a hearing, but the use of
17 the marking, labeling, or containers shall, if the secretary so directs, be withheld pending hearing
18 and final determination by the secretary. Any such determination by the secretary ~~shall be~~ is
19 conclusive unless, within the time prescribed by § 1-26-31, the person adversely affected
20 ~~thereby~~ by the determination appeals to the circuit court of South Dakota.

21 Section 195. That § 39-5-32 be amended to read as follows:

22 39-5-32. Inspection ~~shall~~ may not be provided under this chapter at any establishment for
23 the slaughter of livestock, or the preparation of any carcasses or parts or products of livestock,
24 which are not intended for use as human food, but such articles shall, unless naturally inedible

1 by humans, be denatured or otherwise identified as prescribed by ~~regulations of~~ rules
2 promulgated pursuant to chapter 1-26 by the secretary of the Animal Industry Board to deter
3 their use for human food. No person ~~shall~~ may sell, donate, transport, or offer or receive for sale
4 or transportation, in this state any such carcasses, parts ~~thereof~~ of the carcasses, or meat food
5 products ~~which~~ that are not intended for use as human food unless they are denatured or
6 otherwise identified as required by ~~the regulations of~~ rules promulgated pursuant to chapter 1-26
7 by the secretary or are naturally inedible by humans.

8 Section 196. That § 39-5-33 be amended to read as follows:

9 39-5-33. No person ~~shall~~ may engage in this state in business as a meat broker, inedible
10 products renderer, or animal food manufacturer, or as a wholesaler of any carcasses, or parts or
11 products of the carcasses, of any livestock, whether intended for human food or other purposes,
12 or as a public warehouseman storing any such articles, or in the business of buying, selling, or
13 transporting any dead, dying, crippled, or diseased livestock, unless ~~when,~~ if required by
14 ~~regulations of~~ rules promulgated pursuant to chapter 1-26 by the secretary of the Animal
15 Industry Board, ~~he~~ the person has registered with the secretary, ~~his~~ the person's name, and the
16 address of each place of business at which, and all trade names under which, ~~he~~ the person
17 conducts such business.

18 Section 197. That § 39-5-34 be amended to read as follows:

19 39-5-34. No person engaged in this state in the business of buying, selling, or transporting
20 dead, dying, crippled, or diseased livestock or any parts of the carcasses of any livestock that
21 died otherwise than by slaughter, ~~shall~~ may buy, sell, donate, transport, or offer or receive for
22 sale or transportation in this state any such livestock or parts of carcasses, unless ~~such~~ the
23 transaction or transportation is made in accordance with ~~such regulations as~~ any rules
24 promulgated pursuant to chapter 1-26 by the secretary of the Animal Industry Board ~~may~~

1 ~~prescribe~~ to effectuate the purposes of this chapter.

2 Section 198. That § 39-5-35 be amended to read as follows:

3 39-5-35. Carcasses, parts ~~thereof~~ of the carcasses, and meat food products ~~which that~~, in any
4 establishment at which inspection is maintained under this chapter, are prepared, wholly or in
5 part, without supervision of an inspector as required by the secretary of the Animal Industry
6 Board, or otherwise not in compliance with the ~~regulations under~~ provisions of this chapter,
7 shall be handled or disposed of as the secretary may ~~by regulations prescribe~~ provide in rules
8 promulgated pursuant to chapter 1-26 to prevent the use for human food of articles that are
9 adulterated or misbranded.

10 Section 199. That § 39-5-38 be amended to read as follows:

11 39-5-38. Any carcass, part of a carcass, or meat food product of any livestock or any dying,
12 crippled, or diseased livestock that is being transported in this state, or is held for sale or
13 donation in this state after such transportation, and that:

- 14 (1) Is or has been prepared, sold, transported, or otherwise distributed or offered or
15 received for distribution in violation of this chapter; or
16 (2) Is capable of use as human food and is adulterated or misbranded; or
17 (3) In any other way is in violation of this chapter,

18 ~~shall be~~ is liable to be proceeded against and seized and condemned, at any time, by an action
19 in the circuit court of South Dakota within the jurisdiction of which the article or animal is
20 found. If the article or animal is condemned it shall, after entry of the decree, be disposed of by
21 destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees,
22 and storage and other proper expenses, shall be paid into the treasury of this state, ~~but the~~ The
23 article or animal ~~shall~~ may not be sold contrary to the provisions of this chapter or federal law:
24 ~~Provided, that. However,~~ upon the execution and delivery of a good and sufficient bond

1 conditioned that the article or animal ~~shall~~ may not be sold or otherwise disposed of contrary
2 to the provisions of this chapter or federal law, the court may direct that ~~such~~ the article or
3 animal be delivered to the owner ~~thereof~~ of the article or animal subject to ~~such~~ supervision by
4 authorized representatives of the secretary of the Animal Industry Board as ~~is~~ necessary to
5 ensure compliance with this chapter. ~~When~~ If a decree of condemnation is entered against the
6 article or animal and it is released under bond, or destroyed, court costs and fees, and storage
7 and other expenses shall be awarded against the person, if any, intervening as claimant of the
8 article or animal.

9 Section 200. That § 39-5-39 be amended to read as follows:

10 39-5-39. The following acts, or the causing ~~thereof~~ of the following acts, by any person
11 within this state, are hereby prohibited, except as otherwise provided under § 39-5-11:

12 (1) The slaughter of livestock or the preparation of any carcasses, parts thereof, or meat
13 food products of livestock at any establishment conducting such operations solely for
14 intrastate commerce, except in compliance with the requirements of this chapter;

15 (2) The sale, donation, transportation, or offering or receiving for sale or transportation
16 in this state of:

17 (a) Any livestock carcass, part ~~thereof~~ of the carcass, or meat food product, unless
18 such article has been inspected to assure its freedom from adulteration and
19 misbranding, in accordance with the requirements under this chapter or the
20 Federal Wholesome Meat Act, as amended to January 1, 2006; or

21 (b) Any such article ~~which~~ that is capable of use as human food and is adulterated
22 or misbranded at the time of such sale, donation, transportation, or offer or
23 receipt for sale or transportation;

24 (3) Doing, with respect to any livestock carcass, part ~~thereof~~ of the carcass, or meat food

product ~~which~~ that is capable of use as human food, any act while it is being transported in this state or held for sale or donation after such transportation, ~~which~~ that is intended to cause or has the effect of causing ~~such~~ the article to be adulterated or misbranded;

(4) Selling, donating, transporting, or offering or receiving for sale or transportation, in this state, any carcasses of horses, mules, or other equines or parts of such carcasses, or the meat or meat food products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as required by ~~regulations prescribed~~ rules promulgated pursuant to chapter 1-26 by the secretary of the Animal Industry Board to show the kinds of animals from which they were derived;

(5) Casting, printing, lithographing, or otherwise making any device containing any official mark or simulation ~~thereof~~ of the official mark, or any label bearing any such mark or simulation, or any form of official certificate or simulation ~~thereof~~ of the official certificate, except as authorized by the secretary;

(6) Forging any official device, mark, or certificate;

(7) Without authorization from the secretary using any official device, mark, or certificate, or simulation ~~thereof~~ of the device, mark, or certificate, or altering, detaching, defacing, or destroying any official device, mark, or certificate;

(8) Contrary to ~~the regulations prescribed~~ rules promulgated pursuant to chapter 1-26 by the secretary, failing to use, or to detach, deface, or destroy any official device, mark, or certificate;

(9) Knowingly possessing, without promptly notifying the secretary or ~~his~~ the secretary's representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any animal, or part

- 1 or product ~~thereof~~ of the carcass, bearing any counterfeit, simulated, forged, or
2 improperly altered official mark;
- 3 (10) Knowingly making any false statement in any shipper's certificate or other nonofficial
4 or official certificate provided for in ~~the regulations prescribed~~ rules promulgated
5 pursuant to chapter 1-26 by the secretary;
- 6 (11) Knowingly representing that any article has been inspected and passed or exempted
7 under this chapter ~~when~~ if, in fact, it has, respectively, not been so inspected and
8 passed or exempted;
- 9 (12) Neglecting or refusing to attend and testify or to answer any lawful inquiry, or to
10 produce documentary evidence, if in ~~his~~ the person's power to do so, in obedience to
11 the subpoena of the secretary; or willfully making any false entry or statement of fact
12 in any report required to be made under this chapter; or willfully making any false
13 entry in any record kept by any person subject to this chapter;
- 14 (13) Failing to file any report required by the secretary under § 39-5-8, within the time
15 fixed by ~~him for such~~ the secretary for filing, or failing to keep any record required
16 by the secretary under § 39-5-36;
- 17 (14) Refusing to permit any duly authorized representative of the secretary ~~or to~~ to have
18 access at all reasonable times, to the premises, facilities, inventory, or records of any
19 establishment in this state at which livestock are slaughtered or the carcasses, parts
20 ~~thereof~~ of the carcasses, or meat food products are prepared, or refusing to permit
21 ~~such~~ the representative to copy any such records, as authorized by § 39-5-36;
- 22 (15) Assaulting, resisting, opposing, impeding, intimidating, or interfering with any
23 person while engaged in, or on account of, the performance of ~~his~~ the person's
24 official duties under this chapter; or giving or paying anything of value to any person

employed to perform any official duties under this chapter, with intent to influence
~~his~~ the person's official actions;

(16) Receiving by any person employed to perform any official duties under this chapter
of anything of value given or paid ~~by any person~~ to influence ~~his~~ the person's official
actions;

(17) Violating §§ 39-5-31 to 39-5-34 or any ~~regulations~~ rule under § 39-5-8.

A violation of any provision in this section is a Class 1 misdemeanor.

Section 201. That § 39-5-42 be amended to read as follows:

39-5-42. Before any violation of this chapter is reported by the secretary of the Animal
Industry Board to the state's attorney of any county of this state for institution of a criminal
proceeding, the person against whom such proceeding is contemplated shall be given reasonable
notice of the alleged violation and opportunity to ~~present his views~~ respond orally or in writing
with regard to ~~such~~ the contemplated proceeding. Nothing in this chapter ~~shall be construed as~~
~~requiring~~ requires the secretary to report for criminal prosecution violations of this chapter,
~~whenever he~~ if the secretary believes that the public interest will be adequately served and
compliance with this chapter obtained by a suitable written notice of warning.

Section 202. That § 39-6-3 be amended to read as follows:

39-6-3. Section 39-6-2 ~~shall~~ does not apply to milk, cream, skim milk, or goat milk
occasionally secured or purchased for ~~his~~ personal use by any consumer at the place or farm
where the milk is produced, ~~and provided further, that § 39-6-2 shall.~~ Section 39-6-2 does not
apply to any active farm producer of milk, selling and delivering ~~his~~ the farm producer's own
production direct to consumers only. The containers in which any unpasteurized milk is sold
shall be clearly labeled by the producer as "raw milk." Failure to affix such label is a Class 2
misdemeanor.

Section 203. That § 39-6-6 be amended to read as follows:

39-6-6. No person ~~shall~~ may sell, offer, or expose for sale, any milk or milk products labeled Grade A unless the milk or milk products have been produced or processed in accordance with the requirements of South Dakota law and ~~regulations adopted~~ rules promulgated pursuant to chapter 1-26 by the secretary of agriculture.

Section 204. That § 39-6-7 be amended to read as follows:

39-6-7. Any person desiring to use the Grade A label on milk or milk products shall ~~make application~~ apply for a permit to the secretary of agriculture on a form furnished and prescribed by the secretary. The permit shall be issued by the secretary ~~when he has determined~~ if the secretary determines that the applicant has complied with the requirements of state law and ~~regulation~~ rules.

Section 205. That § 39-6-8 be amended to read as follows:

39-6-8. ~~Permits~~ No permit to use the Grade A label on milk or milk products ~~shall not be~~ is transferable with respect to person or location ~~and may~~. The permit may be suspended or revoked as provided in §§ 39-6-15 and 39-6-16.

Section 206. That § 39-6-14 be amended to read as follows:

39-6-14. ~~The~~ No permit issued to a person performing field service for a Grade A processor ~~shall not be~~ is transferable ~~and~~. The permit may be revoked for due cause after the holder of the permit has been given an opportunity for a hearing, ~~in which the~~. The holder of the permit shall be given a notice in writing of the time and place of ~~such~~ the hearing and at least seven days before the date of ~~such~~ the hearing.

Section 207. That § 39-6-15 be amended to read as follows:

39-6-15. A permit issued pursuant to § 39-6-7 or 39-6-10 may be suspended by the secretary of agriculture ~~or his duly qualified agent or agents upon failure by the holder of the permit to~~

1 ~~comply with~~ upon violation by the permit holder of any of the terms of state law ~~and regulation~~
2 or rules related to milk and milk products or for interference with inspection, ~~and may be~~
3 ~~revoked by the secretary.~~ The secretary may revoke the permit for due cause after the holder of
4 the permit has been given the opportunity for a hearing before the secretary. The secretary shall,
5 upon request of the holder of a permit, fix the time and place of ~~such~~ the hearing.

6 Section 208. That § 39-6-16 be amended to read as follows:

7 39-6-16. No permit ~~shall~~ may be revoked ~~prior to~~ before the hearing provided in § 39-6-15,
8 but a permit may be suspended ~~prior to such time and said suspension shall be in full force and~~
9 before the hearing, and the suspension is in effect until the hearing, at which time the secretary
10 of agriculture shall make ~~his~~ a final determination; ~~however, in.~~ In lieu of suspending the permit
11 the secretary ~~or his duly authorized agent~~ may place a stop-sale order upon a single pasteurized
12 product ~~which~~ that does not meet the minimum standards fixed for ~~such~~ the product.

13 Section 209. That § 39-6-17 be amended to read as follows:

14 39-6-17. Nothing in this chapter ~~shall be construed as prohibiting~~ prohibits any first or
15 second class municipality from enacting and enforcing ordinances establishing a system of
16 continuous inspection of dairy products and dairy products plants or from grading or degrading
17 any dairy or dairy products or barring the ~~same~~ products from sale within the municipality;
18 ~~provided that any.~~ Any such ordinance shall provide a system of inspection equal at least to the
19 system of inspection of dairy products or dairy products plants established by the secretary of
20 agriculture and the ~~regulations~~ rules promulgated under ~~his~~ the secretary's authority, ~~and that the.~~
21 The grading of any dairy products or dairy products plants as provided by ordinance shall be at
22 least equal to that employed by the Department of Agriculture.

23 Section 210. That § 39-6-20 be amended to read as follows:

24 39-6-20. Any person who sells, offers, or exposes for sale, any milk or milk products labeled

1 Grade A, unless the milk or milk products have been produced and processed in accordance
2 with the requirements of §§ 39-6-7 to 39-6-19, inclusive, and the rules ~~and regulations~~ of the
3 secretary of agriculture ~~promulgated in respect thereto~~ related to such requirements, is guilty of
4 a Class 2 misdemeanor.

5 Section 211. That § 39-7-6 be amended to read as follows:

6 39-7-6. The secretary of agriculture ~~is authorized and directed to~~ shall administer and
7 supervise the enforcement of this chapter; ~~to~~ shall provide for such periodic inspections and
8 investigations as ~~he may deem~~ the secretary deems necessary to disclose violations; ~~to~~ shall
9 receive and provide for the investigation of complaints; and ~~to~~ shall provide for the institution
10 and prosecution of civil or criminal actions or both.

11 Section 212. That § 39-8-6 be amended to read as follows:

12 39-8-6. Frozen desserts, sold in other than individual serving devices, shall be sold in terms
13 of gallons, quarts, or pints weighing not less than four and one-half pounds per gallon, or less
14 than thirty-six ounces per one-half gallon, or less than nine ounces per pint. If the average
15 weight of ten units, e.g. ten quarts, or any lot of frozen dessert of the same brand and flavor
16 equals or exceeds the minimum weight established for such units by this section, the
17 requirements ~~shall be~~ are deemed to have been met; ~~provided. However,~~ no individual unit ~~shall~~
18 ~~be more than five percent of the required unit weight under~~ may weigh less than ninety-five
19 percent of the minimum weight established for such units.

20 Section 213. That § 39-9-8 be amended to read as follows:

21 39-9-8. If butter is mislabeled within the meaning of this chapter ~~and or the regulations~~
22 ~~issued hereunder, the same shall be~~ rules promulgated under this chapter, the butter is deemed
23 misbranded within the meaning of § 39-4-18 ~~and any.~~ Any violation of the section or ~~regulations~~
24 ~~issued thereunder shall be punished~~ rules promulgated under the section is punishable as

provided by § 39-4-18.

Section 214. That § 39-9-9 be amended to read as follows:

39-9-9. The secretary of agriculture may also provide by ~~regulation~~ rules promulgated pursuant to chapter 1-26 for the licensing of butter graders, ~~if he shall determine that the same shall be necessary and shall determine.~~ The rules shall specify the necessary qualifications and means of examination of such graders. ~~The secretary and~~ may further provide for revocation of ~~such~~ licenses for violation of the law and ~~regulations issued thereunder~~ applicable rules. ~~If a license fee is established the same shall~~ The rules may establish a license fee, which may not exceed ten dollars per annum. ~~A~~ The right of appeal from any decision refusing to grant a license or revoking any such license ~~shall be~~ is allowed in accordance with the provisions of chapter 1-26.

Section 215. That § 39-11-4 be amended to read as follows:

39-11-4. ~~Licenses shall be issued by the~~ The secretary of agriculture shall issue a license to ~~persons who apply therefor, pay~~ any person who applies for a license, pays the prescribed license fee ~~and comply, and is found to be in compliance~~ with the provisions of this chapter and the rules and regulations promulgated thereunder; provided, that such pursuant to this chapter. ~~The rules and regulations may require applicants~~ any applicant for a license as a candler and grader of eggs to show competency by ~~the successful passing of~~ an examination prescribed by the secretary.

Section 216. That § 39-11-6 be amended to read as follows:

39-11-6. All licenses provided for in § 39-11-5 ~~shall~~ expire on the twenty-eighth day of February ~~next~~ following the issuance ~~thereof~~ of the license unless sooner revoked and may be renewed upon proper application to the secretary. Any licensee who ~~shall~~ does not apply for renewal of ~~his~~ the license at least fifteen days before the expiration date shall be charged an

1 additional twenty-five dollar fee for the renewal.

2 Section 217. That § 39-11-7 be amended to read as follows:

3 39-11-7. For the protection of the public health and welfare and to secure uniformity in the
4 marketing of eggs, the secretary of agriculture may promulgate rules pursuant to chapter 1-26
5 concerning:

6 (1) The definition of purchase and retail standards and grades for eggs;

7 (2) The definition of production, processing, and distribution standards for eggs;

8 (3) The definition of minimum plant and equipment requirements for the labeling,
9 selling, and storage of eggs;

10 (4) The definition of candling methods;

11 (5) The sale or exposure to sale of shell eggs to retail stores and the institutional
12 consumer;

13 (6) The licensure of dealers and candler graders;

14 (7) Record-keeping requirements; and

15 (8) The provision of the issuance of stop sales.

16 Section 218. That § 39-11-9 be amended to read as follows:

17 39-11-9. All eggs delivered by producers for sale ~~must~~ shall be candled before full payment
18 ~~therefor be made; provided, however, that~~ for the eggs. However, before candling, the purchaser
19 of ~~such~~ the eggs may pay the producer up to ninety percent of the estimated value of ~~such~~ the
20 eggs as agreed upon between the purchaser and producer.

21 Section 219. That § 39-11-10 be amended to read as follows:

22 39-11-10. Every licensee under this chapter shall keep ~~such~~ candling and grading records
23 as ~~may be required by the rules and regulations of~~ required in rules promulgated pursuant to
24 chapter 1-26 by the secretary of agriculture, which. The records shall be open at all times for

1 examination by the secretary ~~or his duly authorized representatives.~~

2 Section 220. That § 39-11-13 be amended to read as follows:

3 39-11-13. No dealer in buying eggs or selling eggs ~~shall~~ may take or give a greater or less
4 dockage for eggs unfit for human food as defined in § 39-11-12 than the actual dockage as
5 determined by the correct candling of the eggs purchased or sold, nor ~~shall he~~ may the dealer
6 undergrade eggs purchased or overgrade eggs sold as such grades are determined and classified
7 from time to time by the secretary of agriculture.

8 Section 221. That § 39-11-14 be amended to read as follows:

9 39-11-14. No licensee ~~shall have in his possession~~ may retain possession any eggs ~~which~~
10 that have been candled and graded as unfit for human consumption. However, egg products to
11 be sold for animal foods may be held in possession if denatured or decharacterized ~~in such~~
12 ~~manner as shall be described in rules or regulations~~ as provided in rules promulgated pursuant
13 to chapter 1-26 by the secretary of agriculture.

14 Section 222. That § 39-11-16 be amended to read as follows:

15 39-11-16. If the secretary of agriculture ~~or his authorized representative shall determine~~
16 determines, after inspection, that any lot of eggs or egg products is in violation of this chapter
17 ~~he, the secretary~~ may issue a stop-sale order on ~~such the~~ lot or lots of eggs and promptly notify
18 the owner or custodian of ~~such the~~ order, ~~such. The~~ order shall specify the reason for its
19 issuance. A stop-sale order ~~shall prohibit~~ prohibits the further marketing of ~~such the~~ eggs until
20 released by the secretary ~~or his authorized agent.~~

21 Section 223. That § 39-14-46 be amended to read as follows:

22 39-14-46. A commercial feed ~~shall be deemed to be~~ is adulterated if it bears or contains any
23 poisonous or deleterious substance ~~which that~~ may render it injurious to health; ~~but in case,~~
24 However, if the substance is not an added substance, such the commercial feed ~~shall not be~~ is

1 ~~not~~ considered adulterated under this section if the quantity of ~~such~~ the substance in ~~such~~ the
2 commercial feed does not ordinarily render it injurious to health.

3 Section 224. That § 39-14-47 be amended to read as follows:

4 39-14-47. A commercial feed ~~shall be deemed to be~~ is adulterated if it bears or contains any
5 added poisonous, added deleterious, or added nonnutritive substance ~~which~~ that is unsafe within
6 the meaning of section 406 of the Federal Food, Drug, and Cosmetic Act ~~(other than one which,~~
7 as amended to January 1, 2006, unless the substance is (1) a pesticide chemical in or on a raw
8 agricultural commodity; or (2) a food additive).

9 Section 225. That § 39-14-47.1 be amended to read as follows:

10 39-14-47.1. A commercial feed is adulterated if it is, or it bears, or contains any color
11 additive that is unsafe within the meaning of section ~~706~~ 721 of the Federal Food, Drug and
12 Cosmetic Act as amended to January 1, ~~1993~~ 2006. A commercial feed is adulterated if it is, or
13 it bears, or contains any new animal drug that is unsafe within the meaning of section 512 of the
14 Federal Food, Drug and Cosmetic Act as amended to January 1, ~~1993~~ 2006.

15 Section 226. That § 39-14-48 be amended to read as follows:

16 39-14-48. A commercial feed ~~shall be deemed to be~~ is adulterated if it is, or it bears or
17 contains any food additive ~~which~~ that is unsafe within the meaning of section 409 of the Federal
18 Food, Drug, and Cosmetic Act, as amended to January 1, 2006.

19 Section 227. That § 39-14-49 be amended to read as follows:

20 39-14-49. A commercial feed ~~shall be deemed to be~~ is adulterated if it is a raw agricultural
21 commodity and it bears or contains a pesticide chemical ~~which~~ that is unsafe within the meaning
22 of section 408 ~~(a)~~ of the Federal Food, Drug, and Cosmetic Act: ~~Provided, that where, as~~
23 amended to January 1, 2006. However, if a pesticide chemical has been used in or on a raw
24 agricultural commodity in conformity with an exemption granted or a tolerance prescribed under

1 section 408 of the Federal Food, Drug, and Cosmetic Act, as amended to January 1, 2006, and
2 ~~such the~~ raw agricultural commodity has been subjected to processing such as canning, cooking,
3 freezing, dehydrating, or milling, the residue of ~~such the~~ pesticide chemical remaining in or on
4 ~~such the~~ processed feed ~~shall not be deemed~~ is not unsafe if ~~such the~~ residue in or on the raw
5 agricultural commodity has been removed to the extent possible in good manufacturing practice
6 and the concentration of ~~such the~~ residue in the processed feed is not greater than the tolerance
7 prescribed for the raw agricultural commodity, unless the feeding of ~~such the~~ processed feed
8 will result or is likely to result in a pesticide residue in the edible product of the animal, ~~which~~
9 that is unsafe within the meaning of section 408 ~~(a)~~, of the Federal Food, Drug, and Cosmetic
10 Act, as amended to January 1, 2006.

11 Section 228. That § 39-14-50 be amended to read as follows:

12 39-14-50. A commercial feed ~~shall be deemed to be~~ is adulterated if any valuable constituent
13 has been in whole or in part omitted or abstracted ~~therefrom~~ from the feed or any less valuable
14 substance substituted ~~therefor~~ for the valuable constituent.

15 Section 229. That § 39-14-51 be amended to read as follows:

16 39-14-51. A commercial feed ~~shall be deemed to be~~ is adulterated if its composition or
17 quality falls below or differs from that which it is purported or is represented to possess by its
18 labeling.

19 Section 230. That § 39-14-52 be amended to read as follows:

20 39-14-52. A commercial feed ~~shall be deemed to be~~ is adulterated if it contains a drug and
21 the methods used in or the facilities or controls used for its manufacture, processing, or
22 packaging do not conform to current good manufacturing practice rules promulgated by the
23 secretary of agriculture pursuant to ~~the provisions of~~ chapter 1-26 to assure that the drug meets
24 the ~~requirement~~ requirements of this chapter as to safety and has the identity and strength and

1 meets the quality and purity characteristics which it purports or is represented to possess. In
2 promulgating ~~such~~ the rules, the secretary shall adopt the current good manufacturing practice
3 regulations for medicated feed premixes and for medicated feeds established under authority of
4 the Federal Food, Drug, and Cosmetic Act, ~~unless he~~ as amended to January 1, 2006, unless the
5 secretary determines that they are not appropriate to the conditions which exist in this state.

6 Section 231. That § 39-14-53 be amended to read as follows:

7 39-14-53. A commercial feed ~~shall be deemed to be~~ is adulterated if it contains viable weed
8 seeds in amounts exceeding the limits ~~which~~ established by the secretary of agriculture ~~shall~~
9 ~~establish by rule pursuant to the provisions of~~ in rules promulgated pursuant to chapter 1-26.

10 Section 232. That § 39-14-56 be amended to read as follows:

11 39-14-56. A commercial feed ~~shall be deemed to be~~ is misbranded:

- 12 (1) If its labeling is false or misleading in any particular;
- 13 (2) If it is distributed under the name of another commercial feed;
- 14 (3) If it is not labeled as required in § 39-14-54 or 39-14-55;
- 15 (4) If it purports to be or is represented as a commercial feed, or if it purports to contain
16 or is represented as containing a commercial feed ingredient, unless ~~such~~ the
17 commercial feed or feed ingredient conforms to the definition, if any, prescribed ~~by~~
18 ~~regulation~~ by the secretary of agriculture in rules promulgated pursuant to chapter 1-
19 26;
- 20 (5) If any word, statement, or other information required by or under authority of this
21 chapter to appear on the label or labeling is not prominently placed thereon with such
22 conspicuousness (as compared with other words, statements, designs, or devices in
23 the labeling) and in such terms as to render it likely to be read and understood by the
24 ordinary individual under customary conditions of purchase and use.

Section 233. That § 39-14-61 be amended to read as follows:

39-14-61. Before ~~issuance~~ promulgation, amendment, or repeal of any rule authorized by this chapter, the secretary of agriculture shall publish the proposed rule, amendment, or notice to repeal an existing rule in accordance with § 1-26-4. ~~The provisions of this section notwithstanding~~ However, if the secretary, pursuant to the authority of this chapter, adopts official definitions of feed ingredients or official feed terms as adopted by the Association of American Feed Control Officials, or regulations promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act, as amended to January 1, 2006, any amendment or modification adopted by that association or by the secretary of health and human services in the case of regulations promulgated pursuant to the Federal Food, Drug, and Cosmetic Act, as amended to January 1, 2006, shall be adopted automatically under this chapter without regard to the publication of the notice required by this section, unless the secretary, by order, specifically determines that the amendment or modification may not be adopted.

Section 234. That § 39-14-62 be amended to read as follows:

39-14-62. For the purpose of the enforcement of this chapter, the secretary of agriculture or ~~his~~ the secretary's duly designated agent may enter upon any public or private premises, including any vehicle of transport, during regular business hours to have access to, to obtain samples of, and to examine records relating to distribution of commercial feeds. Such procedures may be established by rules promulgated pursuant to the provisions of chapter 1-26.

Section 235. That § 39-14-65 be amended to read as follows:

39-14-65. If the owner of any factory, warehouse, or establishment described in § 39-14-63, or ~~his~~ the owner's agent, refuses to admit the secretary of agriculture or ~~his~~ the secretary's agent to inspect in accordance with §§ 39-14-63 and 39-14-64, the secretary ~~is authorized to~~ may obtain from any state court of competent jurisdiction a warrant directing ~~such~~ the owner or ~~his~~

1 ~~the owner's~~ agent to submit the premises described in ~~such~~ the warrant to inspection.

2 Section 236. That § 39-14-66 be amended to read as follows:

3 39-14-66. If the officer or employee making inspection of a factory, warehouse, or other
4 establishment under §§ 39-14-63 and 39-14-64, has obtained a sample in the course of the
5 inspection, upon completion of the inspection and prior to leaving the premises ~~he~~ the officer
6 or employee shall give to the owner, operator, or agent in charge a receipt describing the
7 samples obtained.

8 Section 237. That § 39-14-70 be amended to read as follows:

9 39-14-70. Any person who ~~used to his own~~ uses for personal advantage, or reveals ~~to~~, other
10 than to the secretary of agriculture; or officers of the secretary; or to the courts ~~when if~~ relevant
11 in any judicial proceeding, any information acquired under the authority of this chapter;
12 concerning any method, ~~records, formulations, or processes which~~ record, formulation, or
13 process that as a trade secret is entitled to protection; is guilty of a Class 1 misdemeanor:
14 ~~Provided, that. However,~~ this prohibition ~~shall not be deemed as prohibiting~~ does not prohibit
15 the secretary, ~~or his duly authorized agent,~~ from exchanging information of a regulatory nature
16 with appointed officials of the United States government, or of other states, who are similarly
17 prohibited by law from revealing this information.

18 Section 238. That § 39-14-71 be amended to read as follows:

19 39-14-71. ~~When~~ If the secretary of agriculture ~~or his authorized agent~~ has reasonable cause
20 to believe that any lot of commercial feed is being distributed in violation of any of the
21 provisions of this chapter or of any ~~of the prescribed rules under~~ rules promulgated pursuant to
22 this chapter, ~~he~~ the secretary may issue and enforce a written or printed "withdrawal from
23 distribution" order, warning the distributor not to dispose of the lot of commercial feed in any
24 manner until written permission is given by the secretary or the court. The secretary shall release

1 the lot of commercial feed so withdrawn when the provisions and rules have been followed. If
2 compliance is not obtained within thirty days, the secretary may begin, or upon request of the
3 distributor or registrant shall begin, proceedings for condemnation.

4 Section 239. That § 39-14-76 be amended to read as follows:

5 39-14-76. Nothing in this chapter ~~shall be construed as requiring~~ requires the secretary of
6 agriculture ~~or his representative~~ to:

- 7 (1) Report for prosecution; or
- 8 (2) Institute seizure proceedings; or
- 9 (3) Issue a withdrawal from distribution order,

10 as a result of minor violations of the chapter, or ~~when he~~ if the secretary believes the public
11 interest will best be served by suitable notice of warning in writing.

12 Section 240. That § 39-14-77 be amended to read as follows:

13 39-14-77. ~~It shall be the duty of each~~ Each state's attorney to whom any violation is reported
14 ~~to shall~~ cause appropriate proceedings to be instituted and prosecuted in a court of competent
15 jurisdiction without delay. Before the secretary of agriculture reports a violation for such
16 prosecution, an opportunity shall be given ~~the~~ to distributor to present ~~his~~ the distributor's view
17 to the secretary.

18 Section 241. That § 39-14-78 be amended to read as follows:

19 39-14-78. The secretary of agriculture shall publish at least annually, in such forms as ~~he~~
20 ~~may deem~~ the secretary deems proper, information concerning the sales of commercial feeds,
21 together with such data on their production and use as ~~he may consider~~ the secretary considers
22 advisable, and a report of the results of the analyses of official samples of commercial feeds sold
23 within the state as compared with the analyses guaranteed in the registration and on the label:
24 ~~Provided, that.~~ However, the information concerning production and use of commercial feeds

1 ~~shall~~ may not disclose the operations of any person.

2 Section 242. That § 39-18-5 be amended to read as follows:

3 39-18-5. Any person may ~~make application~~ apply for the registration of any animal remedy
4 by filing with the secretary of agriculture, on forms furnished by ~~him~~ the secretary, a statement
5 with respect to ~~such~~ the animal remedy setting forth:

6 (1) The name and principal address of the manufacturer or person responsible for placing
7 ~~such~~ the animal remedy on the market with the name and address of the person to
8 whom the correspondence should be addressed;

9 (2) The name, brand, or trademark under which the animal remedy will be sold.

10 Section 243. That § 39-18-10 be amended to read as follows:

11 39-18-10. The secretary of agriculture may refuse to issue any certificate of registration for
12 an animal remedy to any applicant if available facts indicate that the product proposed for
13 registration is of negligible or no value for the correcting, alleviating, or mitigating animal
14 injuries or diseases for which it is intended, ~~or he~~. The secretary may suspend or revoke any
15 registration for ~~flagrant~~ violation of this chapter.

16 Section 244. That § 39-18-11 be amended to read as follows:

17 39-18-11. ~~When~~ If an animal remedy has been registered and the fee paid by the
18 manufacturer, or distributor, no other person ~~shall be~~ is required to pay ~~such~~ the fee.

19 Section 245. That § 39-18-12 be amended to read as follows:

20 39-18-12. No person ~~shall~~ may sell, deliver, hold, or offer for sale any animal remedy ~~which~~
21 that has not been registered with the secretary of agriculture as provided in §§ 39-18-3 to 39-18-
22 8, inclusive.

23 Section 246. That § 39-18-14 be amended to read as follows:

24 39-18-14. No person ~~shall~~ may compound, manufacture, make, produce, pack, package, or

1 prepare within this state any animal remedy to be offered for sale or distribution unless ~~such the~~
2 compounding, manufacture, making, producing, packaging, packing, or preparing is done with
3 adequate equipment under the supervision of a licensed veterinarian, a graduate chemist, a
4 licensed pharmacist, a licensed physician, or some other person ~~as may be~~ approved by the
5 secretary of agriculture after an investigation and a determination by the secretary that ~~they are~~
6 the person is qualified by scientific or technical training or by experience to perform such duties
7 of supervision as may be necessary to protect animal health and public safety.

8 Section 247. That § 39-18-16 be amended to read as follows:

9 39-18-16. No person ~~shall~~ may forge, counterfeit, simulate, or falsely represent, or without
10 proper authority use, any mark, stamp, tag, label, or other identification device required by § 39-
11 18-15.

12 Section 248. That § 39-18-17 be amended to read as follows:

13 39-18-17. No person ~~shall~~ may alter, mutilate, destroy, obliterate, or remove any part of the
14 labeling of any animal remedy if such acts result in ~~such the~~ animal remedy being misbranded,
15 or do any other act, while ~~such the~~ animal remedy is being held for sale, ~~which that~~ results in
16 the misbranding of ~~such article~~ the animal remedy.

17 Section 249. That § 39-18-18 be amended to read as follows:

18 39-18-18. An animal remedy ~~shall be deemed~~ is to be misbranded if it is not labeled as
19 required in § 39-18-15 and in ~~regulations~~ rules promulgated under this chapter.

20 Section 250. That § 39-18-19 be amended to read as follows:

21 39-18-19. An animal remedy ~~shall be deemed to be~~ is misbranded if the labeling is false or
22 misleading in any particular.

23 Section 251. That § 39-18-20 be amended to read as follows:

24 39-18-20. An animal remedy ~~shall be deemed to be~~ is misbranded if any word, statement,

1 or other information required to appear on the label is not prominently placed on ~~such~~ the label
2 with such conspicuousness, as compared with other words, statements, designs, or devices in
3 the labeling and in such terms, as to render it likely to be read and understood by the ordinary
4 individual under customary conditions of purchase and use.

5 Section 252. That § 39-18-21 be amended to read as follows:

6 39-18-21. An animal remedy ~~shall be deemed to be~~ is misbranded if its container is so made,
7 formed, or filled as to be deceptive or misleading as to the amount of contents.

8 Section 253. That § 39-18-22 be amended to read as follows:

9 39-18-22. An animal remedy ~~shall be deemed to be~~ is misbranded if it is distributed under
10 the name of another animal remedy.

11 Section 254. That § 39-18-23 be amended to read as follows:

12 39-18-23. An animal remedy ~~shall be deemed to be~~ is misbranded if it is dangerous to the
13 health of animals when used in the dosage or with the frequency or duration prescribed,
14 recommended, or suggested in the labeling of ~~such~~ the remedy.

15 Section 255. That § 39-18-25 be amended to read as follows:

16 39-18-25. An animal remedy ~~shall be deemed to be~~ is adulterated if it consists in whole or in
17 part of any filthy, putrid, or decomposed substance.

18 Section 256. That § 39-18-26 be amended to read as follows:

19 39-18-26. An animal remedy ~~shall be deemed to be~~ is adulterated if it bears or contains any
20 poisonous or deleterious substance ~~which~~ that may render it injurious to health under such
21 conditions of use as are customary or usual.

22 Section 257. That § 39-18-27 be amended to read as follows:

23 39-18-27. An animal remedy ~~shall be deemed to be~~ is adulterated if its container is
24 composed of any injurious or deleterious substance ~~which~~ that may render it injurious to health.

Section 258. That § 39-18-28 be amended to read as follows:

39-18-28. An animal remedy ~~shall be deemed to be~~ is adulterated if it was prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to animal health.

Section 259. That § 39-18-29 be amended to read as follows:

39-18-29. An animal remedy ~~shall be deemed to be~~ is adulterated if its composition, purity, strength, or quality falls below or differs from that which it is purported or is represented to possess by its labeling; ~~but, the~~ The secretary of agriculture shall allow a reasonable tolerance from such representation ~~as is~~ in accordance with good manufacturing practices.

Section 260. That § 39-18-30 be amended to read as follows:

39-18-30. No person ~~shall~~ may manufacture, sell, deliver, hold, or offer for sale any animal remedy that is adulterated or misbranded.

Section 261. That § 39-18-31 be amended to read as follows:

39-18-31. No person ~~shall~~ may give a guaranty ~~which that~~ is false, except a person who relied on a guaranty to the same effect signed by, and containing the name and address of, the person from whom ~~he~~ the animal remedy was received ~~the animal remedy~~ in good faith.

Section 262. That § 39-18-32 be amended to read as follows:

39-18-32. No person ~~shall~~ may disseminate any false or misleading advertisement ~~which is false or misleading in any respect, but, However,~~ no person or medium for the dissemination of any advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, is subject to the penalties for violations of this chapter, by reason of the dissemination by ~~him of such~~ the person of the false advertisement, unless ~~he the~~ the person refused, ~~on the~~ a request of the secretary of agriculture to furnish the name and address of the manufacturer, packer, distributor, seller, or advertising agency ~~which that~~ caused ~~him the~~

1 person to disseminate ~~such the~~ advertisement.

2 Section 263. That § 39-18-33 be amended to read as follows:

3 39-18-33. No person ~~shall~~ may sell or offer to sell any biological product that has not been
4 kept in refrigeration under conditions prescribed by ~~the rules and regulations~~ promulgated ~~and~~
5 ~~adopted~~ pursuant to chapter 1-26 by the secretary of agriculture.

6 Section 264. That § 39-18-36 be amended to read as follows:

7 39-18-36. The secretary of agriculture may publish ~~at such times and in such forms as he~~
8 ~~may deem proper~~, information concerning the sales of animal remedies, together with ~~such~~ data
9 on their production and use ~~as he may consider advisable~~, and a report of the results of the
10 analyses of official samples of animal remedies sold within the state as compared with the
11 analyses guaranteed in the registration and on the label; ~~provided, however, that. However,~~ the
12 information concerning production and use of animal remedies ~~shall~~ may not disclose the
13 operations of any person.

14 Section 265. That § 39-18-39 be amended to read as follows:

15 39-18-39. The secretary of agriculture or ~~his~~ the secretary's agent shall have free access at
16 all reasonable hours to any establishment in which animal remedies are manufactured,
17 processed, packed, sold, or offered for sale, to inspect ~~such the~~ premises and to determine
18 whether the provisions of this chapter are being violated.

19 Section 266. That § 39-18-40 be amended to read as follows:

20 39-18-40. The secretary of agriculture ~~or his agent~~ may secure samples or specimens of any
21 animal remedy after paying or offering to pay for them, ~~and he.~~ The secretary shall make an
22 examination or analysis of ~~such the collected~~ samples to determine whether the provisions of
23 this chapter are being violated. The secretary, in determining for administrative purposes
24 whether an animal remedy is deficient in any component, shall be guided solely by the official

1 sample obtained and analyzed as provided ~~for above~~ in this section.

2 Section 267. That § 39-18-41 be amended to read as follows:

3 39-18-41. No person ~~shall~~ may refuse to permit entry or inspection, or to permit the
4 acquisition of a sample or specimen of an animal remedy, as authorized by §§ 39-18-39 and 39-
5 18-40.

6 Section 268. That § 39-18-43 be amended to read as follows:

7 39-18-43. The secretary of agriculture or ~~any of his agents shall~~ the secretary's agent may
8 not use or reveal information acquired under §§ 39-18-5, 39-18-6, and 39-18-38 to 39-18-40,
9 inclusive, except in the enforcement of this chapter, or to the courts, ~~when~~ if relevant.

10 Section 269. That § 39-18-45 be amended to read as follows:

11 39-18-45. ~~Whenever~~ If the secretary of agriculture or ~~his authorized agent~~ finds or has
12 reasonable cause to believe an animal remedy is adulterated or misbranded under any of §§ 39-
13 18-18 to 39-18-29, inclusive, ~~he~~ the secretary shall affix to ~~such article~~ the animal remedy a tag
14 or other appropriate marking, giving notice that ~~such article~~ the animal remedy is, or is
15 suspected of being, adulterated or misbranded and has been detained and warning all persons
16 not to dispose of ~~such article~~ the animal remedy in any manner until permission is given by the
17 secretary or the court. Any such ~~article~~ animal remedy may be removed from display by the
18 manufacturer or vendor, but must be left on the premises. No person ~~shall~~ may dispose of a
19 detained ~~article~~ animal remedy in violation of this section.

20 Section 270. That § 39-18-46 be amended to read as follows:

21 39-18-46. If an ~~article~~ animal remedy detained pursuant to § 39-18-45 is found, after
22 examination and analysis, to be adulterated or misbranded, the secretary of agriculture may
23 petition the judge of any court of competent jurisdiction in whose jurisdiction the article is
24 detained for a libel for condemnation of ~~such article~~ the animal remedy. If the secretary finds

1 that ~~such detained article~~ the detained animal remedy is not adulterated or misbranded ~~he~~ the
2 secretary shall remove the tag or marking.

3 Section 271. That § 39-18-47 be amended to read as follows:

4 39-18-47. If the court finds that a detained animal remedy is adulterated or misbranded, ~~such~~
5 ~~article~~ the animal remedy shall, after entry of the decree, be destroyed at the expense of the
6 defendant under the supervision of the secretary of agriculture ~~or his agent, att.~~ All court costs
7 and fees, and storage and other proper expenses, shall be levied against the defendant ~~or his~~
8 agent.

9 Section 272. That § 39-18-48 be amended to read as follows:

10 39-18-48. If the adulteration or misbranding of a detained animal remedy can be corrected
11 by proper processing or labeling of the ~~article~~ animal remedy, the court, after entry of the decree
12 and after such costs, fees, and expenses have been paid and a sufficient bond, conditioned that
13 ~~such article~~ the animal remedy shall be so processed or labeled, has been executed, may order
14 ~~such article~~ the animal remedy to be delivered to the defendant for such processing or labeling
15 under the supervision of the secretary of agriculture, ~~or his agent~~. The expense of such
16 supervision shall be paid by the defendant. The bond shall be returned to the defendant on the
17 representation to the court by the secretary that the article no longer violates this chapter and that
18 expenses incident to ~~such~~ the proceeding were paid.

19 Section 273. That § 39-18-50 be amended to read as follows:

20 39-18-50. Section 39-18-49 does not require the secretary of agriculture to report, for the
21 institution of prosecution under this chapter, minor violations of this chapter if ~~he~~ the secretary
22 believes the public interest will be adequately served in the circumstances by a suitable written
23 notice of warning.

24 Section 274. That § 40-3-5 be amended to read as follows:

1 40-3-5. The Animal Industry Board shall appoint an executive secretary who ~~shall be~~ is a
2 veterinarian and a graduate of a recognized and approved college of veterinary medicine. ~~He~~
3 The executive secretary may not be a member of the board. ~~His term of office shall be for~~ The
4 executive secretary's term of office is one year ~~and or~~ until ~~his~~ a successor is appointed and
5 qualified.

6 Section 275. That § 40-3-8 be amended to read as follows:

7 40-3-8. The Animal Industry Board shall hold its meetings in Pierre at such times as it
8 designates, but there may not be more than four regular meetings each year, including the annual
9 meeting which shall be held on the first Tuesday after the second Monday in July of each year;
10 ~~at which meeting the~~ The president and vice-president shall be elected for the ensuing year shall
11 be elected at the annual meeting. However, the president of the board may call special meetings
12 whenever and wherever in the state ~~he~~ the president considers necessary.

13 Section 276. That § 40-3-11 be amended to read as follows:

14 40-3-11. The executive secretary of the Animal Industry Board shall act as state veterinarian
15 and shall ~~secure all~~ obtain as much information ~~he can obtain regarding~~ as possible related to
16 the existence of contagious, infectious, or transmissible diseases of livestock ~~and~~ The executive
17 secretary shall execute all orders, rules, and regulations made by the board and present at the
18 regular meetings of the board detailed reports of all matters connected with the work done by
19 ~~him~~ the executive secretary during the period preceding the meeting.

20 Section 277. That § 40-5-5 be amended to read as follows:

21 40-5-5. ~~If any person~~ Any person who transports, drives, or trails any animal within this state
22 in violation of the provisions of §§ 40-5-2 to 40-5-4, inclusive, or of any order or rule of the
23 State Animal Industry Board, ~~he~~ is liable for all damages sustained on account of any disease
24 communicated by, traceable to, or resulting from such act.

Section 278. That § 40-6-16 be amended to read as follows:

40-6-16. If any bovine animal has been adjudged to be infected with tuberculosis and has been ordered killed, the owner or custodian thereof shall be notified of the finding and order; ~~and within.~~ Within forty-eight hours thereafter after the notification, the owner or custodian may file a protest with the Animal Industry Board, stating under oath that to the best of ~~his~~ the ~~owner's or custodian's~~ knowledge and belief ~~such~~ the animal is free from such infectious, contagious, or transmissible disease.

Section 279. That § 40-7-9.1 be amended to read as follows:

40-7-9.1. The state veterinarian shall notify the owner or agister of any herd of origin or livestock associated with those showing evidence of brucellosis at the time of slaughter, to submit ~~such~~ the herd or livestock for such brucellosis testing as the state veterinarian may direct. ~~Such~~ The owner or agister shall submit ~~such~~ the herd or livestock for testing within six months from date of receipt of notice from the state veterinarian. After receipt of ~~such notice and prior to the time such~~ the notice and before the testing is completed, no livestock required to be tested, may be sold except for slaughter. ~~Such~~ The owner or agister shall select a time for testing ~~of such~~ the livestock and give seven days' notice to a state veterinarian of ~~such~~ the time selected.

Section 280. That § 40-7-11 be amended to read as follows:

40-7-11. The Animal Industry Board may quarantine herds ~~which~~ that do not comply with §§ 40-7-8 to 40-7-10, inclusive. The owner of any quarantined herd shall ~~have twelve months from the official starting date of the test to submit his herd for testing~~ submit the herd for testing within twelve months after the official starting date of the test. The board shall notify immediately the owner or person in charge of any livestock placed under quarantine of the action; and the quarantine shall remain in full force and effect until all requirements of the board have been complied with, at which time the quarantine shall be released.

Section 281. That § 40-7-16 be amended to read as follows:

40-7-16. Any purchaser of female cattle or bison at any such licensed livestock auction agency, public stockyards, or other livestock sales yards or points as designated by the Animal Industry Board under § 40-7-15, shall receive at ~~his~~ the purchaser's request a test of all such female cattle or bison one year old or older as ~~he may designate~~ the purchaser designates.

Section 282. That § 40-7-19.1 be amended to read as follows:

40-7-19.1. If a consignment of cattle or bison is tested for brucellosis at any market and a reactor to the brucellosis test is disclosed, none of the animals in that consignment may be passed as clean animals to become part of a breeding herd, but rather, they shall either be sold for slaughter, returned to the point of origin and held in isolation until they have passed a negative test at least one hundred eighty days after the reactor has been removed, or they may be sold. However, after their sale, they shall be transported, under quarantine, directly into a feed lot or isolation and remain in such feed lot or isolation until retest or until they are sold for slaughter. If any person must disperse ~~his~~ the person's herd by sale and if, in the opinion of the Animal Industry Board, the procedure provided for in this section would cause undue hardship, the Animal Industry Board may, in their discretion, provide for other means for handling the negative animals in question.

Section 283. That § 40-7-27 be amended to read as follows:

40-7-27. ~~Whenever~~ If any cattle or bison have been adjudged to be infected with brucellosis by the animal industry board and have been ordered killed by the board and are killed in accordance with the board's order, the actual value of ~~such~~ the cattle or bison at the time of appraisal shall be determined by the Animal Industry Board within twenty-four hours after the killing is ordered and before the cattle or bison are killed. If the owner is aggrieved by ~~such~~ the appraisal, ~~he~~ the owner may cause a board of appraisers to be appointed pursuant to § 40-7-28.

Section 284. That § 40-7-28 be amended to read as follows:

40-7-28. ~~In case~~ If the owner of cattle or bison to be killed under the provisions of § 40-7-27 is not satisfied with the appraisal made by the Animal Industry Board, ~~he~~ the owner may protest the appraisal, whereupon a board of three appraisers is to be formed ~~of which one~~. One member ~~of the board of appraisers~~ shall be an agent of the Animal Industry Board, one member shall be selected by the owner of the cattle or bison involved, and the third member shall be selected by the first two members. An appraisal of the cattle or bison involved shall be made by the board of appraisers, and the appraisal of any two of them is final.

Section 285. That § 40-7-57 be amended to read as follows:

40-7-57. ~~When~~ If any swine slaughtered show evidence of brucellosis, resulting from tests of blood samples collected, and the origin of the swine involved can be traced back to the herd of origin with reasonable certainty, ~~the following procedures shall be followed: the state veterinarian or his~~ the state veterinarian's agent shall notify the owner or agister of the result of the test; ~~upon~~. Upon notification that there may be brucellosis existing in ~~his~~ the herd, the owner or agister shall be instructed that no swine may be sold except for slaughter purposes, under permit, until ~~such time as~~ the herd is tested and found free of the disease; ~~such~~. The owner or agister shall submit ~~such~~ herd of swine for test within thirty days of the date of notice or ~~such~~ the owner or agister may elect to dispose of the entire herd for slaughter purposes only, in lieu of the test; ~~and, in~~. In any event ~~he~~ the owner or agister shall declare whether ~~he wants to have the herd tested or sell it~~ the herd is to be tested or sold for slaughter and set the date by which ~~he will have completed~~ the testing or slaughtering will be completed.

Section 286. That § 40-8-4 be amended to read as follows:

40-8-4. If the Animal Industry Board has been notified or has reason to believe that sheep scabies exist in any locality or in any flock of sheep and examination is necessary or advisable,

1 ~~he the board~~ shall notify the owner or person in charge of ~~such the~~ sheep to gather them into a
2 suitable enclosure in order that the sheep may be properly examined and inspected.

3 Section 287. That § 40-8-6 be amended to read as follows:

4 40-8-6. If, upon examination by the Animal Industry Board, any sheep within this state are
5 found infected with or exposed to sheep scabies, the officer making ~~such the~~ examination or
6 inspection shall immediately place ~~such the~~ sheep under quarantine where the sheep were found
7 or at the nearest, suitable, convenient place ~~and~~. The officer shall quarantine the premises where
8 the sheep were found, the premises where the sheep were kept, and all exposed sheep and
9 premises, ~~and shall forthwith~~. The officer shall immediately serve written or printed notice of
10 ~~such the~~ action on the owner or person in charge, ~~which~~. The notice shall be inscribed with date
11 of service and contain an order to treat all of the sheep within ten days from ~~such that~~ date in
12 a manner approved by the United States Department of Agriculture for the eradication of
13 scabies, ~~which~~. The treatment shall be done under the supervision of the board or the United
14 States Department of Agriculture. The owner or person in charge of the sheep shall, within the
15 period stated in such notice, treat the sheep in the manner directed; and the quarantine ~~placed~~
16 shall remain in effect until all requirements as to treatment have been complied with.

17 Section 288. That § 40-9-3 be amended to read as follows:

18 40-9-3. Notwithstanding § 40-9-2, the state veterinarian may permit the use of a virulent live
19 virus, a modified live virus, or an attenuated live virus for the prevention or control of hog
20 cholera if ~~he the state veterinarian~~ deems it necessary to protect the public health, safety, or
21 welfare. ~~He may permit its use on swine which~~ The state veterinarian may permit the use of such
22 live viruses on swine that are to be moved interstate ~~and~~ if the laws of the state of destination
23 require the swine to be vaccinated with modified live virus or an attenuated live virus.

24 Section 289. That § 40-9A-6 be amended to read as follows:

1 40-9A-6. The owner of any pseudorabies herd shall test ~~his swine~~ the herd for pseudorabies,
2 using an official approved test according to the schedule of testing set forth in the approved herd
3 plan adopted pursuant to § 40-9A-5. A violation of this section is a Class 2 misdemeanor.

4 Section 290. That § 40-9A-9 be amended to read as follows:

5 40-9A-9. If a veterinarian or other person in South Dakota performing disease diagnostic
6 services knows, or has reason to suspect, that any swine has pseudorabies, ~~he~~ the veterinarian
7 or other person shall notify, within forty-eight hours, the state veterinarian. A violation of this
8 section is a Class 2 misdemeanor.

9 Section 291. That § 40-9A-10 be amended to read as follows:

10 40-9A-10. Upon receipt of a report of pseudorabies, the state veterinarian shall conduct an
11 immediate investigation to determine the origin and avenue of transmission of the infection. The
12 state veterinarian may enter the place or premises for the investigation and inspection ~~if he~~
13 ~~follows~~ but shall follow any reasonable request of the owner in regard to protective clothing,
14 sanitized boots, or other items for the protection of persons or animals.

15 Section 292. That § 40-9A-11 be amended to read as follows:

16 40-9A-11. If the state veterinarian has reason to believe that the pseudorabies may spread
17 within a county or geographical area, ~~he~~ the state veterinarian may serve public notice by
18 publication in a newspaper of general circulation in the county or geographical area requiring
19 any owner of swine to confine ~~his~~ the owner's animals for any period necessary to prevent the
20 spread of pseudorabies. Failure to comply with an order of the state veterinarian made pursuant
21 to this section is a Class 1 misdemeanor.

22 Section 293. That § 40-10-2 be amended to read as follows:

23 40-10-2. The provisions of § 40-10-1 do not apply to ~~an individual~~ any person who feeds
24 to ~~his~~ the person's own animals only the garbage obtained from ~~his~~ the person's own household,

1 the by-products of sugar beets, or the by-products of dairy plants.

2 Section 294. That § 40-10-7 be amended to read as follows:

3 40-10-7. On presentation to the Animal Industry Board of evidence that ~~he has caused~~ swine
4 ~~to be~~ have been disposed of pursuant to direction given under § 40-10-4, the owner ~~thereof~~ of
5 the swine is entitled to reimbursement by the state of a sum equal to one-third of the sum
6 remaining after the proceeds derived from the disposition of ~~such~~ the swine has been deducted
7 from the appraised value. If the federal government fails to provide an equal amount of
8 indemnity with the state, ~~then~~ the owner shall receive one-half of the difference between the
9 appraised value and the proceeds derived from the disposition of the swine. The state is not
10 liable for any indemnity if the special livestock disease indemnity fund has been exhausted or
11 in any sum larger than the sum appropriated. As used in this section, the term, appraised value
12 ~~shall mean,~~ means the amount of appraisal of swine based upon the market value. The fact
13 that the animal is or has been affected with vesicular exanthema, or has been exposed ~~thereto~~
14 to vesicular exanthema, does not affect appraisal of its market value.

15 Section 295. That § 40-12-4 be amended to read as follows:

16 40-12-4. Terms used in this chapter mean:

- 17 (1) "Department," the Department of Health;
- 18 (2) "Owner," any person who has a right of property in a pet, keeps or harbors a pet or
19 who ~~has it in his care~~ provides care for a pet or acts as its custodian, or permits a pet
20 to remain on or about any premises occupied by ~~him~~ the person;
- 21 (3) "Pet," any dog, cat, or other species of carnivore kept for domestication or display.

22 Section 296. That § 40-12-5 be amended to read as follows:

23 40-12-5. The department may serve written notice upon the owner of any dog or cat ~~which~~
24 that has attacked or bitten a person to confine the animal at the owner's expense upon ~~his~~ the

1 owner's premises or at a city pound or other place designated in the notice for a period of at least
2 ten days after the animal has attacked or bitten any person. The department may examine the
3 animal at any time within the ten-day period of confinement to determine whether ~~such~~ the
4 animal shows symptoms of rabies. In the case of any pet, other than a dog or cat, ~~which that~~ has
5 attacked or bitten a person, the department may serve written notice upon the owner of ~~such~~ the
6 animal that the owner shall have the animal euthanized immediately and submit the brain to an
7 approved laboratory for rabies examination. Any owner who fails to comply with a written
8 notice served pursuant to this section is guilty of a Class 1 misdemeanor.

9 Section 297. That § 40-13A-2 be amended to read as follows:

10 40-13A-2. If any nondomestic ~~animals are~~ animal is adjudged to be infected with any
11 infectious, contagious, epidemic, or communicable disease by the Animal Industry Board, ~~are~~
12 is ordered destroyed by the board ~~and are, and is~~ destroyed in accordance with the order, the
13 actual value of ~~such animals~~ the animal shall be determined by the Animal Industry Board
14 within twenty-four hours after the destruction is ordered and before ~~such animals are~~ the animal
15 is destroyed. If the owner or keeper is aggrieved by the appraisal, ~~he~~ the owner or keeper may
16 request a board of appraisers to be appointed pursuant to § 40-13A-3.

17 Section 298. That § 40-14-10 be amended to read as follows:

18 40-14-10. It is a Class 1 misdemeanor for any veterinarian to issue a health certificate or test
19 chart if ~~he~~ the veterinarian has not properly inspected or tested the livestock to which it relates,
20 in accordance with the statements in the certificate and the procedures indicated on the test
21 chart, or to represent in the certificate or test chart that ~~he~~ the veterinarian has inspected or tested
22 any animal if ~~he~~ the veterinarian has not personally and properly made ~~such~~ the inspection or
23 test.

24 Section 299. That § 40-19-19 be amended to read as follows:

1 40-19-19. If a brand is canceled as provided in § 40-19-17, the owner of the brand may
2 select a replacement brand that does not conflict with any other brands of record. The owner
3 may apply for a replacement brand as though ~~he~~ the owner is applying for a new brand except
4 that no new brand fee may be assessed for the brands.

5 Section 300. That § 40-19-22 be amended to read as follows:

6 40-19-22. Fees required by §§ 40-19-11, 40-19-12, 40-19-15, and 40-19-16 shall be
7 collected by the board and shall be paid into the state treasury to the credit of the brand fund;
8 ~~which fund shall. The fund may~~ not at any time revert to the general fund of the state or be
9 diverted to any other purposes than those stated in this chapter, or chapters 40-20 and 40-21.

10 Section 301. That § 40-21-10 be amended to read as follows:

11 40-21-10. If any livestock, inspected under the provisions of this chapter or chapter 40-20
12 bears an unrecorded brand, or a recorded brand other than the brand of the seller, and does not
13 bear the recorded brand of such seller, then the seller shall ~~be required to~~ establish ~~his~~ ownership
14 to ~~such~~ the livestock, by presenting to the livestock ownership inspector a witnessed bill of sale
15 to ~~such~~ the animal or by other satisfactory evidence of ownership which may include an affidavit
16 of ownership signed by the seller and witnessed by the ownership inspector. If any livestock
17 listed on the original bill of sale or affidavit of ownership are not sold, the inspector shall pick
18 up the ownership documents and issue a receipt showing the number of livestock sold and the
19 number remaining. If any livestock are unbranded, the inspector may require the shipper or
20 seller to establish ~~his~~ ownership by presenting to the inspector an affidavit of ownership. Only
21 an original bill of sale or affidavit of ownership is valid for proof of ownership. Any bill of sale
22 or affidavit shall be notarized or signed by two witnesses.

23 Section 302. That § 40-23-14 be amended to read as follows:

24 40-23-14. ~~When~~ If any member of a cooperative grazing district ~~shall dispose~~ disposes of

1 all or a part of the lands owned or leased by ~~him~~ the member so that another individual or other
2 individuals ~~shall~~, by the purchase and ownership or lease of ~~such lands~~ acquire the lands,
3 acquires right to membership, ~~then~~ the rights and interests involved ~~shall be~~ are determined by
4 the bylaws.

5 Section 303. That § 40-23-19 be amended to read as follows:

6 40-23-19. Cooperative grazing associations may cross-fence any part or all of the area and
7 assign to each member a unit so fenced for ~~his~~ the member's exclusive use, ~~provided he~~ if the
8 member follows the conservation practices outlined in the bylaws.

9 Section 304. That § 40-23-20 be amended to read as follows:

10 40-23-20. The directors ~~shall have power to~~ may grant to nonmembers grazing permits
11 within such districts ~~when~~ if the amount of forage within the district is greater than the need of
12 the members, but no such permits ~~shall~~ may be granted ~~when such use shall be~~ if such use is
13 inconsistent with the terms of leases of county, state, or federal land within the district or with
14 a safe policy of forage conservation within such district.

15 Section 305. That § 40-23-25 be amended to read as follows:

16 40-23-25. A lease pursuant to § 40-23-24 ~~shall not be~~ is not subject to the provisions of
17 chapter 7-30, and ~~such~~ the lease may be for a period of not more than ten years, with the lands
18 thus leased not subject to sale to other parties. The lease may contain a provision for the
19 privilege of purchase by the incorporated grazing district at any time during the term of the lease
20 at ~~such~~ an appraised price ~~as shall~~ to be determined at or ~~prior to~~ before the origination of the
21 lease.

22 Section 306. That § 40-23-26 be amended to read as follows:

23 40-23-26. No lease ~~shall~~ may be entered into pursuant to § 40-23-24 until the board of
24 county commissioners, in order to conserve and protect the existing forage resources of ~~such~~

1 county land and to restore the maximum carrying capacity of ~~such the~~ land ~~shall reserve,~~
2 reserves the right to regulate and limit the amount of grazing ~~thereon and the~~ on the land. The
3 limitations and restrictions imposed shall be made a part of ~~such the~~ lease.

4 Section 307. That § 40-25-2 be amended to read as follows:

5 40-25-2. The persons forming a purebred livestock registry association shall sign and
6 acknowledge written articles which shall contain the name of the association and the names and
7 residences of the persons forming the ~~same~~. Such the association. The articles shall also contain
8 a statement of the breed of livestock for registration of which ~~said the~~ association is formed and
9 no association ~~shall~~ may be formed for the purpose of registration for more than one particular
10 breed of livestock. The ~~said~~ articles shall also designate the municipality within this state where
11 the principal place of business and records of ~~said the~~ association ~~shall be~~ are located, but
12 ~~provision may be made~~ the articles may provide for business meetings of the stockholders and
13 directors outside of the State of South Dakota ~~by said articles of incorporation~~.

14 Section 308. That § 40-25-4 be amended to read as follows:

15 40-25-4. Any purebred livestock registry association may amend its articles of incorporation
16 by a majority vote of its stockholders at any regular stockholders' meeting or at any special
17 stockholders' meeting called for that purpose upon thirty days' written notice to the stockholders;
18 ~~a copy of such notice to~~. A copy of the notice shall be mailed separately to each stockholder at
19 ~~his the stockholder's~~ last known address or ~~to~~ shall be published in a newspaper located nearest
20 to the principal place of business of ~~such the~~ association ~~for~~ at least two weeks ~~next preceding~~
21 ~~the time of holding such meeting, which~~ before the meeting. The notice shall state the time and
22 place of the meeting and the amendment or amendments to be proposed. Any amendment to the
23 articles of incorporation may be made which could have been made as a provision of the
24 original articles. Within thirty days after the adoption of the amendment to its articles of

1 incorporation the association shall cause a copy of ~~such the~~ amendment, properly certified by
2 the presiding officer and secretary of the meeting at which ~~such the~~ amendment was made, to
3 be recorded in the Office of the Secretary of State ~~and any~~. Any amendment so adopted and
4 recorded ~~shall be~~ is a part of the ~~Constitution~~ constitution and bylaws of the association.

5 Section 309. That § 40-25-5 be amended to read as follows:

6 40-25-5. A purebred livestock registry association may be formed for a term not exceeding
7 fifty years ~~and such~~. The term may be extended for like periods of fifty years so long as the
8 members and directors ~~thereof may~~ of the association comply with the Constitution and laws
9 of the State of South Dakota relative to such associations.

10 Section 310. That § 40-25-6 be amended to read as follows:

11 40-25-6. Any association formed under the provisions of this chapter may extend its term
12 of existence at any time within the last year of its then existing term, as evidenced by its articles
13 of incorporation, or any amended articles, by filing with the secretary of state articles of
14 incorporation such as are required for formation of an association, under the provisions of this
15 chapter, ~~and containing~~. The articles shall contain the additional statement that ~~such the~~ articles
16 are filed for the purpose of extending the term of existence of ~~said the~~ association for ~~such the~~
17 specified additional term ~~as may be specified~~, not exceeding the term of fifty years for each
18 separate extension.

19 Section 311. That § 40-25-7 be amended to read as follows:

20 40-25-7. The bylaws of a purebred livestock registry association shall be adopted at the
21 organization meeting of the association after its original articles of incorporation have been filed
22 in the ~~Office of the Secretary of State, and such~~ office of the secretary of state. The bylaws may
23 be amended at any meeting of the stockholders called in the same manner and with the same
24 notice as is required for amending the articles of incorporation. A majority vote of the

1 stockholders or members of the association ~~shall be~~ is required to adopt the original bylaws or
2 any amendment ~~thereof~~ of the original bylaws. The bylaws may provide all matters necessary
3 for conduct of the activities of the association in accordance with the Constitution and laws of
4 this state and the articles of incorporation of the association.

5 Section 312. That § 40-25-8 be amended to read as follows:

6 40-25-8. No person ~~shall be~~ is entitled to more than one vote at any stockholders' meeting
7 no matter how many shares of stock or membership certificates in a purebred livestock registry
8 association ~~he the person~~ may hold, but nothing. Nothing in this section ~~shall prevent~~ prevents
9 any person from exercising the voting rights of any other person or persons by virtue of a proxy,
10 in accordance with the bylaws of the association.

11 Section 313. That § 40-25-9 be amended to read as follows:

12 40-25-9. A purebred livestock registry association shall be managed by a board of not less
13 than six nor more than fifteen directors to be elected by and from the stockholders of the
14 association at ~~such the~~ time and for ~~such the~~ terms as the said bylaws may prescribe and to
15 prescribed in the bylaws. The directors shall hold office for the time for which they are elected
16 ~~and said. The~~ bylaws shall provide for the election of one-third of the ~~said~~ directors for
17 succeeding terms in annual, biennial, triennial succession so that the board of directors may
18 operate as a continuing body or board. All directors shall hold office until their successors are
19 elected and have entered upon the discharge of their duties.

20 Section 314. That § 40-25-10 be amended to read as follows:

21 40-25-10. The officers of every purebred livestock registry association shall ~~be~~ include a
22 president, one or more vice-presidents, a secretary, and a treasurer, who shall be elected
23 annually by the directors ~~and each of such. Each of the~~ officers must be is also a director of the
24 association. The office of secretary and treasurer may be combined ~~and when so combined so~~

1 ~~that~~ the person filling the office ~~shall be~~ is the secretary-treasurer.

2 Section 315. That § 40-25-11 be amended to read as follows:

3 40-25-11. A purebred livestock registry association ~~shall have power to~~ may pay such
4 salaries ~~as prescribed by~~ its stockholders or directors ~~may prescribe and own such and may own~~
5 real and personal property ~~as may be required~~ necessary for efficient operation of its business
6 and accomplishment of the purposes for which organized.

7 Section 316. That § 40-25-13 be amended to read as follows:

8 40-25-13. Any association created under the provisions of this chapter ~~shall have power to~~
9 may conduct the business of a purebred livestock registry association and ~~to~~ may do all things
10 necessary to promote the best interests of ~~said~~ the association in accordance with law and the
11 articles of incorporation.

12 Section 317. That § 40-25-14 be amended to read as follows:

13 40-25-14. The records of a purebred livestock registry association or any certified copy
14 ~~thereof of the record~~ or any certificate of pedigree given under the hand of the president and the
15 secretary and under the seal of ~~said~~ the association, ~~shall be~~ is admissible in evidence before any
16 court, board, or tribunal within this state, ~~and any.~~ Any certificate of pedigree of any animal so
17 given ~~shall be~~ is prima facie evidence before all courts, boards, or tribunals of the pedigree of
18 ~~said~~ the animal.

19 Section 318. That § 40-25-15 be amended to read as follows:

20 40-25-15. ~~Every~~ Any person who by any false pretense ~~shall obtain~~ obtains from any club,
21 association, society, or company for improving the breed of cattle, horses, sheep, swine, or other
22 domestic animals, the registration of any animal in the herd register of any such club,
23 association, society, or company, or a transfer of any such registration, and ~~every~~ any person
24 who ~~shall knowingly give~~ knowingly gives a false pedigree of any animal, ~~shall be~~ is guilty of

1 a Class 1 misdemeanor.

2 Section 319. That § 40-27-1 be amended to read as follows:

3 40-27-1. Any person to whom any domesticated animal ~~shall be~~ is entrusted by the owner
4 ~~thereof of the animal~~ or pursuant to ~~his~~ the owner's authority for the purpose of feeding, herding,
5 pasturing, or ranging ~~shall have~~ has a lien ~~thereon on the animal~~ for the amount that may be due
6 for ~~such~~ the service and supplies ~~except as otherwise provided in § 40-27-2. Such lien shall~~
7 ~~entitle~~ . The lien entitles the person to retain possession of ~~such the domesticated animals animal~~
8 until the amount due is paid. The provisions of this section do not apply to stolen animals.

9 Section 320. That § 40-27-2 be repealed.

10 ~~—40-27-2. Section 40-27-1 shall not be construed to give a lien upon any animal if the same~~
11 ~~was not owned by the person entrusting it for keep unless such animal was so entrusted pursuant~~
12 ~~to authority from the owner. The provisions of such section shall not apply to stolen animals.~~

13 Section 321. That § 40-27-3 be amended to read as follows:

14 40-27-3. ~~In the event animals~~ If any animal subject to a lien under § 40-27-1 ~~shall be~~ is
15 mortgaged, the person to whom the animal is entrusted may serve notice in writing on the
16 mortgagee to the effect that ~~he~~ the person is feeding, herding, pasturing, or ranging ~~said animals~~
17 the animal, or is about to do so. ~~Such~~ The notice shall describe the ~~animals animal~~ generally and
18 give the name and address of the person entrusting the ~~same animal~~ and the date when the
19 service commenced or a future date when it is to commence, and the probable amount of the
20 charge for such service and supplies. The notice may be served personally upon the mortgagee
21 or by sending the ~~same notice~~ by registered or certified mail to ~~said the~~ mortgagee at ~~his the~~
22 mortgagee's post office address as set out in the mortgage. Upon service of ~~such the~~ notice any
23 charges for service or supplies subsequently accruing pursuant to the notice ~~shall be~~ constitute
24 a prior lien to ~~said the~~ mortgage to the extent only of the value of ~~said the~~ service and supplies.

Section 322. That § 40-27-12 be amended to read as follows:

40-27-12. Every duly licensed and registered veterinarian ~~shall have~~ has a lien for vaccinating livestock for cholera, anthrax, blackleg, hemorrhagic septicemia, or swine erysipelas from the date of ~~such~~ the vaccination upon all livestock so vaccinated.

Section 323. That § 40-27-13 be amended to read as follows:

40-27-13. Any veterinarian entitled to a lien under § 40-27-12 shall make an account in writing, stating the kind and number of livestock vaccinated; ~~the price agreed upon for such the~~ vaccination, which ~~shall~~ may not be in excess of the price usually charged for such services; ~~the name of the person for whom said the~~ vaccinating was done, ~~and; a description of the~~ livestock vaccinated; ~~and if branded shall describe the brand thereon, and after, a description~~ of the brand on the livestock. After making oath to the correctness of the account, the veterinarian shall file the ~~same~~ account in the office of the register of deeds of the county in which the person owning ~~such the~~ livestock resides.

The register of deeds shall number, file, and index the ~~said~~ lien in the personal property index.

Section 324. That § 40-27-14 be amended to read as follows:

40-27-14. A lien under § 40-27-12 ~~shall have~~ has priority over all conveyances and encumbrances upon ~~said the~~ livestock if filed within twenty days from the day on which ~~said the~~ vaccination was completed.

Section 325. That § 40-27-15 be amended to read as follows:

40-27-15. The lien under § 40-27-12 ~~shall~~ does not affect the rights of innocent purchasers or encumbrancers of the livestock unless the lien statement ~~be~~ is filed within twenty days after completion of the vaccination.

Section 326. That § 40-28-6 be amended to read as follows:

1 40-28-6. The person claiming injury from trespass of livestock, before commencing action
2 thereon, shall notify the owner or person having ~~in charge such livestock~~; charge of the livestock
3 of the injury and probable amount of the damages, ~~provided he~~ if the person knows to whom
4 ~~such~~ the livestock belongs.

5 Section 327. That § 40-28-8 be amended to read as follows:

6 40-28-8. ~~Whenever~~ If any animal or animals are livestock is restrained under § 40-28-7, the
7 person restraining the ~~same shall forthwith~~ livestock shall immediately notify the owner or
8 person ~~in whose custody the same were~~ who had custody of the livestock at the time the trespass
9 was committed, of the seizure ~~thereof, providing~~ of the livestock, if the owner or person who
10 had the ~~same~~ livestock in charge is known to the person making ~~said~~ the seizure.

11 Section 328. That § 40-28-10 be amended to read as follows:

12 40-28-10. If the person aggrieved is not satisfied with the sufficiency of the bond and the
13 parties cannot agree, a bond shall be furnished and ~~shall be approved by the sheriff and after his~~
14 ~~approval~~ submitted to the sheriff for approval. After approval by the sheriff, the person holding
15 the trespassing ~~animal or animals is required to~~ livestock shall turn ~~them~~ the livestock over to
16 the owner. Failure to do so makes ~~him~~ the person holding the livestock a trespasser. The owner
17 of the trespassing ~~animal or animals~~ livestock shall pay the sheriff five dollars for approving the
18 bond ~~and the~~. The owner shall be taxed with the costs if a suit is instituted later.

19 Section 329. That § 40-28-12 be amended to read as follows:

20 40-28-12. The sheriff has a lien upon animals taken into ~~his~~ possession pursuant to § 40-28-
21 11 for the expenses incurred by ~~him~~ the sheriff as outlined in chapter 40-29.

22 Section 330. That § 40-28-15 be amended to read as follows:

23 40-28-15. If possession of animals taken into the sheriff's possession pursuant to § 40-28-11
24 ~~shall not be~~ is not recovered from the sheriff by the owner or person who had the ~~same~~ animals

1 in charge as provided in § 40-28-14, within three days after ~~such the~~ taking, ~~then~~ the sheriff shall
2 ~~forthwith~~ immediately proceed to foreclose the lien provided by § 40-28-12 by a sale of the
3 animals taken, upon the notice and in the manner provided by law for the foreclosure of chattel
4 mortgages. If the owner or person having ~~such the~~ animals in charge is known, ~~such the~~ sale
5 may be ~~had~~ conducted upon three days' notice to be given by the sheriff to ~~such the~~ owner or
6 person having ~~such the~~ animals in charge and to any person or persons holding a lien of record
7 against ~~such the~~ animals, ~~such the~~ notices to be served in the same manner as provided for
8 service of summons in civil actions.

9 Section 331. That § 40-28-16 be amended to read as follows:

10 40-28-16. If the proceeds of a sale pursuant to § 40-28-15 ~~shall be~~ are insufficient to
11 reimburse the ~~sheriff for his~~ sheriff's costs and disbursements as provided in § 40-28-12, ~~then~~
12 the county shall reimburse the sheriff for ~~such any~~ costs and disbursements ~~as he may have~~ the
13 sheriff has expended in the taking, caring for, and sale of the animals in excess of the amount
14 received from ~~such sale, and the~~ the sale. The county may recover in a civil action; any amount
15 so expended by it from the owner or person having ~~such the~~ animals in charge at the time of
16 ~~such the~~ taking.

17 Section 332. That § 40-28-17 be amended to read as follows:

18 40-28-17. The county and the person suffering damage from such trespass may sue jointly
19 or severally for their several costs, expenses, and damages; ~~provided that the~~. However, the
20 receipts of the sale shall be ~~applied in the following manner: first, in payment of~~ used first to
21 pay the costs, expenses, and disbursements of the sheriff ~~and any~~. Any remainder shall be paid
22 to the clerk of the circuit court to be applied upon the payment of any judgment thereafter
23 secured by the person suffering damage, ~~provided that if~~ such action shall be brought in the
24 proper court within sixty days from the date of ~~such the~~ sale.

Section 333. That § 40-28-23 be amended to read as follows:

40-28-23. Upon the trial of an action under the provisions of this chapter, the plaintiff shall recover the amount of damages sustained and the expenses of keeping the trespassing ~~animal~~ ~~or animals~~ livestock during the time ~~he~~ the plaintiff has restrained and retained the custody ~~thereof~~ of the livestock.

Section 334. That § 40-29-26 be amended to read as follows:

40-29-26. Any person who finds an estray may within a period of one year from the date the estray is found, file a claim with the board for the expense incurred in feeding and keeping ~~such~~ the estray if ~~he~~ the person reported the estray pursuant to § 40-29-24. If ~~such~~ the claim is filed, the board shall determine the validity of the claim filed. If any estray ~~shall~~, without the fault of the person taking up the ~~animal, die or be stolen or escape and wander~~ estrays, dies, is stolen, or escapes and wanders away, the person taking up the ~~animal~~ estrays may not be held responsible ~~therefor~~ for the loss of the estray.

Section 335. That § 40-32-10 be amended to read as follows:

40-32-10. ~~It shall be the duty of the~~ The secretary of agriculture, upon evidence of repeated violations of the dairy statutes and regulations, ~~to~~ shall revoke any dairy products plant license; ~~provided, however, that.~~ However, no license ~~shall~~ may be revoked except on twenty days' notice to the licensee, ~~his or its agent or manager,~~ to be served as summons is served in civil actions, ~~specifying.~~ The notice shall specify the substance of the complaint and the time and place at which evidence will be heard in support of the complaint and that an opportunity will be offered to ~~such~~ the licensee complained about to submit evidence and proof ~~in defense of~~ such related to the charges.

Section 336. That § 40-32-10.1 be amended to read as follows:

40-32-10.1. A producer engaged in the business of producing milk and offering the milk for

1 sale ~~such milk~~ to a milk plant, creamery, or cream station for purposes other than Grade A milk
2 as set forth in chapter 39-6 and before ~~such~~ the milk is to be transported from the premises of
3 ~~such the~~ producer, shall obtain a permit from the secretary.

4 Section 337. That § 40-32-10.2 be amended to read as follows:

5 40-32-10.2. All milk plants shall submit to the secretary of agriculture a list of all ~~such~~
6 producers who are currently doing business with ~~them~~ the milk plants and supply the secretary
7 with sufficient information upon which ~~he shall~~ the secretary may issue a permit, ~~providing that~~
8 ~~the secretary shall have the discretion to.~~ The secretary may refuse a permit if ~~he~~ the secretary
9 deems the producer is not producing a quality product; ~~and further, providing that when.~~ If the
10 secretary has adopted necessary rules ~~and regulations pursuant to chapter 1-26~~ and on proper
11 notice to the producer the producer ~~shall have~~ has thirty days within which to comply; ~~and~~
12 ~~further providing that the producer shall not be.~~ The producer is not in violation until ~~such time~~
13 ~~that~~ the secretary has adopted necessary rules ~~and regulations pursuant to chapter 1-26~~ and the
14 producer has been afforded ~~his~~ rights under chapter 1-26.

15 Section 338. That § 40-32-10.3 be amended to read as follows:

16 40-32-10.3. Each permit issued under § 40-32-10.2 ~~shall be to the producer and~~ is issued to
17 the producer for the location named ~~therein in the permit~~ and need not be renewed unless
18 revoked by the secretary of agriculture. No permit ~~shall be~~ is transferable to another location,
19 but a permit may be transferred from one producer to another with the approval of the secretary
20 ~~or his duly authorized agent.~~

21 Section 339. That § 40-32-10.5 be amended to read as follows:

22 40-32-10.5. A producer's permit may be revoked by the secretary of agriculture for due cause
23 after the holder of a permit has been given the opportunity for a hearing before the secretary.
24 The secretary shall, upon the request of the holder of a permit, fix the time and place for ~~such~~

1 ~~the hearing. No permit shall~~ may be revoked ~~prior to the hearing herein provided before the~~
2 ~~hearing,~~ but a permit may be suspended ~~prior to such time and said suspension shall be before~~
3 ~~the hearing, and the suspension is~~ in full force and effect until the hearing at which time the
4 secretary shall make ~~his~~ a final determination.

5 Section 340. That § 40-32-10.8 be amended to read as follows:

6 40-32-10.8. The secretary of agriculture may make provisions for the dairy fieldman's
7 assistance in the reinstatement of a producer permit: ~~Provided, that. However,~~ a suspension of
8 a producer's permit ~~shall~~ may only be made by the secretary ~~or his duly authorized agent.~~

9 Section 341. That § 40-32-22 be amended to read as follows:

10 40-32-22. The secretary of agriculture may require ~~such~~ the retention or submission of
11 reports and records ~~kept and sent to his office as may be needed~~ that may be necessary for the
12 proper enforcement of this chapter.

13 Section 342. That § 40-32-23 be amended to read as follows:

14 40-32-23. The secretary of agriculture ~~or his~~ the secretary's duly authorized representatives
15 ~~shall~~ may have access, ingress, and egress to all places of business, factories, buildings, or
16 related areas where any milk or milk products are produced, bought, manufactured, held, or
17 stored, including any vehicles used for the transportation of milk or milk products, and ~~shall~~
18 may have access to all of the books and records of such places of business for the purpose of
19 enforcing the provisions of this chapter. The secretary ~~or his~~ the secretary's duly authorized
20 representative ~~shall have the authority to~~ may take any samples deemed necessary for the proper
21 enforcement of this chapter.

22 Section 343. That § 40-33-2 be amended to read as follows:

23 40-33-2. Except as provided by §§ 40-33-3 to 40-33-5, inclusive, any person who ~~shall buy~~
24 ~~or sell, contract to buy or sell, or handle~~ buys or sells, contracts to buy or sell, or handles on

1 account of or as agent for another, and any person who ~~shall~~ similarly ~~engage~~ engages in the
2 business of assembling and trucking for such purposes, any eggs, poultry, poultry products, or
3 dairy products in wholesale lots for the purpose of resale, with or without an established place
4 of business, ~~shall is~~, for the purpose of this chapter ~~be deemed~~ a dealer at wholesale.

5 Section 344. That § 40-33-3 be amended to read as follows:

6 40-33-3. A producer who sells eggs produced only by ~~his~~ the producer's own flock, or
7 poultry raised by ~~him~~ the producer, or poultry products processed by ~~him~~ the producer from ~~his~~
8 the producer's own flock, or dairy products produced by ~~him~~ the producer from ~~his~~ the
9 producer's own herd, ~~shall not be deemed~~ is not a dealer at wholesale within the meaning of this
10 chapter.

11 Section 345. That § 40-33-4 be amended to read as follows:

12 40-33-4. Any resident of South Dakota who purchases, ~~and at the time of purchase makes~~
13 ~~full payment in cash therefor~~, South Dakota eggs, poultry, poultry products, or dairy products,
14 ~~shall not be deemed~~ and at the time of purchase makes full payment in cash for the purchase,
15 is not a dealer at wholesale within the meaning of this chapter.

16 Section 346. That § 40-33-7 be amended to read as follows:

17 40-33-7. Any dealer at wholesale, as defined in this chapter, in addition to securing a license
18 from the secretary of agriculture, if ~~such be~~ a license is required by the laws of this state, shall
19 execute and file with the secretary a bond to the State of South Dakota with sureties to be
20 approved by the secretary, ~~the~~ The amount and form ~~thereof to~~ of the bond shall be fixed by the
21 secretary, The bond shall be conditioned for the faithful performance of ~~his~~ duties as a dealer
22 at wholesale, for the observance of all laws relating to the carrying on of the business of a dealer
23 at wholesale, and for the payment when due of the purchase price of produce purchased by ~~him~~
24 ~~when the dealer if~~ notice of default is given the secretary within ninety days after the due date;

1 ~~provided, except~~ that the bond ~~shall~~ does not cover transactions wherein it appears to the
2 secretary that a voluntary extension of credit has been given on the produce by the seller to the
3 dealer at wholesale beyond the due date; The bond shall be further conditioned for the prompt
4 settlement and payment of all claims and charges due the state for services rendered or
5 otherwise, for the prompt reporting of sales, as required by law, to all persons consigning
6 produce to the dealer at wholesale for sale on commission, and for the prompt payment to the
7 persons entitled thereto of the proceeds of ~~such~~ the sales, less lawful charges, disbursements,
8 and commissions. The bond shall cover all wholesale produce business transacted, in whole or
9 in part, within the state.

10 Section 347. That § 40-33-8 be amended to read as follows:

11 40-33-8. ~~The~~ If the secretary of agriculture, ~~when he~~ is of the opinion that any bond
12 ~~theretofore~~ previously given by any dealer at wholesale is inadequate for the proper protection
13 of the public, the secretary may require the dealer at wholesale to give additional bonds in such
14 amounts as ~~from time to time he may determine and direct~~ the secretary determines, with
15 sureties to be approved by the secretary, and conditioned as set forth in § 40-33-7.

16 Section 348. That § 40-33-9 be amended to read as follows:

17 40-33-9. For the purpose of fixing or changing the amount of bonds required by § 40-33-7,
18 the secretary of agriculture may require from a dealer at wholesale verified statements of ~~his~~ the
19 dealer's business; ~~and if~~ If the dealer at wholesale fails to furnish ~~such~~ the information or to
20 furnish a new bond; when directed by the secretary so to do, the secretary may ~~forthwith~~
21 immediately suspend, and, after ten days' notice and opportunity to be heard, revoke ~~his~~ the
22 dealer's license.

23 Section 349. That § 40-33-10 be amended to read as follows:

24 40-33-10. Any person claiming ~~himself~~ to be damaged by any breach of the conditions of

1 a bond given by a dealer at wholesale, as provided in § 40-33-7, may enter a complaint thereof
2 to the secretary of agriculture, ~~which~~. The complaint shall be a written statement of the facts
3 constituting the complaint.

4 Section 350. That § 40-33-11 be amended to read as follows:

5 40-33-11. Upon filing of the complaint ~~in the manner~~ as provided in § 40-33-10, the
6 secretary of agriculture shall investigate the charges made and, ~~at his discretion~~, may order a
7 hearing ~~before him~~, giving the party complained of notice of the filing of the complaint and the
8 time and place of the hearing. At the conclusion of the hearing the secretary shall report ~~his~~
9 ~~findings and render his~~ the secretary's findings and conclusions, upon the matter complained of,
10 to the complainant and the respondent in each case, who ~~shall~~ have fifteen days following in
11 which to make effective and satisfy the secretary's conclusions.

12 Section 351. That § 40-33-12 be amended to read as follows:

13 40-33-12. If settlement is not effected within the time allowed by § 40-33-11, either party,
14 if aggrieved by any condition of the bond, may, upon first obtaining the approval of the secretary
15 of agriculture, commence and maintain an action against the principal and sureties on the bond
16 of the party complained of as in any civil action, ~~provided~~. However, no action against the
17 bondsmen of a dealer at wholesale ~~shall~~ may in any instance be maintained without the written
18 approval of the secretary, which shall be attached to and made a part of the original complaint
19 in the action. Upon commencing the action a copy thereof shall be filed in the office of the
20 secretary.

21 Section 352. That § 40-33-15 be amended to read as follows:

22 40-33-15. ~~In all cases where~~ If the liability of the dealer at wholesale exceeds the amount
23 of ~~his~~ the dealer's bond, or ~~where~~ if the amount of the claims does not exceed the amount of the
24 bond, and the claimants so request in writing, the secretary of agriculture shall commence an

1 action for the recovery of the amount claimed, and the surety or bondsman upon the bond ~~shall~~
2 ~~be is~~ liable to the extent of the amount recovered, not exceeding the amount of the bond, ~~and~~
3 ~~when recovered such amount.~~ The amount recovered shall be deposited with the secretary, who
4 shall, in the same action, subject to the approval of the court, pass upon and allow or disallow
5 all claims ~~which~~ that may be presented to ~~him~~ the secretary for payment or apportioned
6 thereunder, ~~and to.~~ To effect the purposes herein of this section, the secretary may employ
7 counsel, the expense ~~thereof~~ of employing counsel to be paid out of the amount recovered on
8 the bond.

9 Section 353. That § 40-37-5 be amended to read as follows:

10 40-37-5. The first meeting of the livestock owners in the district shall be called in the
11 following manner: The director of equalization of each county within the district shall, within
12 thirty days of the formation of the district, prepare from the county livestock census, as corrected
13 by the board of county commissioners, of that year, an accurate list of all persons, corporations,
14 or partnerships who have been determined to be the owners of livestock described in the petition
15 in ~~his~~ the county and the number of livestock. The director of equalization shall mail a notice
16 to each of the resident livestock owners to attend the district meeting, at a time and place to be
17 specified in the notice, for the election of the board of directors of the predator control district.
18 ~~He~~ The director of equalization shall likewise publish a copy of the notice in the official
19 newspaper of the county, ten days ~~prior to~~ before the date of the meeting. ~~He~~ The director of
20 equalization shall set the date of the meeting so as not to conflict with the date of similar
21 meetings in adjoining districts. When assembled in accordance with the above notice, the
22 resident owners shall appoint a ~~chairman~~ chair and secretary, who shall act as judges of election.

23 Section 354. That § 41-20-2 be amended to read as follows:

24 41-20-2. The state forester shall continue within the Department of Agriculture, ~~and his~~ .

1 The state forester's functions shall be allocated between the forester and the department as they
2 were formerly allocated between the forester and the Game, Fish and Parks Commission.

3 Section 355. That § 41-20-9 be amended to read as follows:

4 41-20-9. The state forester is hereby authorized and directed shall attempt to cooperate with
5 the secretary of the United States Department of Agriculture in providing assistance to owners
6 of land in tree planting, in the procurement of forest trees, seeds, and plants, not including fruit
7 or ornamental trees, and in the distribution of such seeds and plants at reasonable cost ~~to the end~~
8 so that such the seeds or plants ~~so distributed shall~~ may be used effectively for planting forest
9 trees for domestic and industrial purposes ~~and;~~ for protecting farm buildings, crops, and fields
10 from erosion; and for furnishing forest cover beneficial for water conservation and for wildlife
11 habitat.

12 Section 356. That § 41-21-2 be amended to read as follows:

13 41-21-2. ~~The following definition of terms used in this chapter is prescribed~~ Terms used in
14 this chapter mean:

- 15 (1) "Certificate of treatment," ~~means~~ a written statement by the state forester certifying
16 treatment of a forest insect or disease infestation on private land, and containing
17 information on the number of trees treated, location of the trees, ownership of the
18 land, the cost of treatment, and other pertinent information;
- 19 (2) "Declared forest insect or disease emergency," ~~means~~ any state of forest insect or
20 disease infestation or infection deemed a serious threat to the forest or tree resource
21 by the state forester of South Dakota;
- 22 (3) ~~"Private-owned~~ Privately-owned forestland," ~~means~~ any land not in government
23 ownership ~~and which~~ that is at least ten percent stocked with trees and is outside the
24 limits of incorporated municipalities;

(4) "State forester," ~~means~~ the state forester of South Dakota, ~~his~~ and the state forester's assistants, employees, or designated agents.

Section 357. That § 41-21-4 be amended to read as follows:

41-21-4. The state forester may enter upon or cross any ~~privately owned~~ privately-owned land for the purpose of surveying for and locating a forest insect or disease that has been declared to be a public nuisance. Upon finding any such forest insect or disease infestation, the state forester shall notify the landowner in writing of the presence of the infestation and establish a length of time in which the landowner may control the infestation. ~~He~~ The state forester shall further advise the landowner of any acceptable methods and means of effectively controlling the infestation.

Section 358. That § 41-21-5 be amended to read as follows:

41-21-5. If a landowner effectively controls an infestation on ~~his~~ the landowner's property to the satisfaction of the state forester within the time specified upon notification, ~~he~~ the landowner may be reimbursed an amount not to exceed two-thirds of the cost of such control as estimated by the state forester out of any funds made available for this purpose by the Legislature.

Section 359. That § 41-21-6 be amended to read as follows:

41-21-6. If a landowner fails to effectively control an infestation on ~~his~~ the landowner's lands to the satisfaction of the state forester in the specified time, the state forester ~~is hereby authorized to~~ may go upon ~~said~~ the lands to effectively control the infestation by whatever method or means ~~he~~ the state forester deems appropriate, ~~in which case, an amount not~~ Not more than one-third of the cost of such control ~~will~~ may be charged to the landowner.

Section 360. That subdivision (8) of § 1-26-1 be amended to read as follows:

(8) "Rule," each agency statement of general applicability that implements, interprets,

1 or prescribes law, policy, procedure, or practice requirements of any agency. The
2 term includes the amendment or repeal of a prior rule, but does not include:

- 3 (a) Statements concerning only the internal management of an agency and not
4 affecting private rights or procedure available to the public;
- 5 (b) Declaratory rules issued pursuant to § 1-26-15;
- 6 (c) Official opinions issued by the attorney general pursuant to § 1-11-1;
- 7 (d) Executive orders issued by the Governor;
- 8 (e) Student matters under the jurisdiction of the Board of Regents;
- 9 (f) Actions of the railroad board pursuant to § 1-44-28;
- 10 (g) Inmate disciplinary matters as defined in § 1-15-20;
- 11 (h) Internal control procedures adopted by the Gaming Commission pursuant to
12 § 42-7B-25.1;
- 13 (i) Policies governing specific state fair premiums, awards, entry, and exhibit
14 requirements adopted by the State Fair Commission pursuant to § 1-21-10;
- 15 (j) Lending procedures and programs of the South Dakota Housing Development
16 Authority; and
17